

Planning

Growth & Development

Delegated officer report for planning application

Application no. CDN/23/0239

Date registered valid: 6 April 2023

Proposal: Discharge of conditions 3 (CMP), 11a (ground conditions), 25 (archaeology) and 31 (invasive species) attached to planning permission 134504/FO/2022

Address: Olympic Freight Terminal, Storage Land , Bennett Street, Manchester, M12 5NL

Ward(s): Ardwick Ward

Applicant: Mr Ray Collins Kellen Homes

Agent (if any):

Case officer: Sue Wills
Tel: 0161 234 4524
Email: sue.wills@manchester.gov.uk

Recommendation: Approve

Date of recommendation: 20th September 2023

Application details

Type of application: Approval of condition application

Development type: Notifications

Date of site visit:

Standard consultations:

Printed: 26 April 2023 Expired: 17 May 2023

Neighbour notifications

No neighbour notifications have been printed and sent.

Site notice

No site notice has been produced

Press advert

No press advert had been published

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building

Listed building: Not applicable

Conservation area:

Tree Preservation Order:

Description of area

Description of development

Consultations & Notification Responses

Environment Agency - 27.04.2023

Advise that for the purpose of their position statement they have sought to focus their attention upon submissions associated with the sought discharge of conditions 3 (Construction Environmental Management Plan) and Condition 11a (Ground Conditions).

As submitted, they are unable to recommend the discharge of conditions 3 and 11a. Insufficient information has currently been submitted to enable them to reach a determination as to whether, in its progression/commencement, suitable and sufficient measures will be implemented/undertaken to ensure the protection and enhancement of controlled water resources is achieved. They consider their overarching position detailed above to be in accordance with guidance outlined within the National Planning Policy Framework (NPPF) (see

paragraphs 174 and 183) and Regulation 33 of The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.

Should the Local Planning Authority (LPA) be minded grant the discharge of conditions 3 and 11a they ask that they are notified and offered the opportunity to make further representation prior to this occurring.

Condition 11a (Ground Conditions) – Reason for Discharge Objection

They advise that they have recently provided (26/04/2023) under separate cover (EA chargeable planning agreement service) to the applicant/developer and their chosen environmental consultant, preliminary written review advice and guidance on a reporting submission which they understand to be intended to support the discharge of condition 11a attached to 134504/FO/2022. As part of this preliminary advice and guidance, they identified a series of reporting limitations warranting further investigation and documentation revision. Further to the above, they also note for the attention of the applicant/developer the written requirements of condition 11a which requires further to the submission of ground investigation/risk assessment reporting, where deemed necessary, the submission of a remedial strategy addressing all relevant environmental constraints deemed at risk. In association with this, they note to the applicant/developer the current preliminary observations of the EA on the results of ground investigations undertaken to date.

Condition 3 (Construction Environmental Management Plan) – Reason for Discharge Objection
Documentation Submitted: - Construction Environmental Management Plan (CEMP) - Dated July 2022. Whilst they acknowledge that condition 3 was not previously requested by the EA as a conditional requirement for 134504/FO/2022, note that in its scope this condition seeks to govern mitigatory construction activities to be undertaken on-site to ensure protection of the natural environment and reduction/minimisation of risk(s) from potentially harmful construction/development activities. In association with the above and their understanding of intended/required on-site construction activities notably the re-alignment of on-site ordinary watercourses, they note that the current CEMP submission provides only limited details as to the measures which will be undertaken to ensure protection of these watercourse features; detailing solely how hazard liquids will be stored and any spillages resourced (spill kits). They consider the current level of detail supplied within the CEMP for matters pertaining to the protection of controlled waters to be insufficient in detail. Any remedial activities/requirements notwithstanding, they envisage that the re-alignment of pre-existing watercourse(s) is likely to generate significant material movements which if incorrectly managed could pose an adverse risk (sediment run-off / chemical composition). Returning to the matter of remedial requirements, they advise the applicant/agent refers in the first instance to the EA's preliminary written review commentary (issued 26/04/2024) for ground investigation reporting understood to have been undertaken to date. In conjunction with the above commentary, they advise that the current CEMP submission is revised. However, they also recommend that such an action is only undertaken at a point whereby confidence is achieved on site remedial / material movement requirements and the methodology/methodologies intended to be employed to facilitate watercourse re-alignment.

Note to LPA – Condition 22 (Drainage) / Condition 31 (Invasive species) Conflict.

As detailed within the introduction to this letter, whilst as part of this consultation they have not sought to provide a position on the suitability of discharged conditions 22 and 31 attached, they wish to flag the following conflict of conditions. As written, condition 31 requires prior the commencement of development including ground works and vegetation clear the submission of an invasive non-native species protocol. In comparison, we note that condition 22 requires that no development take place until a surface water drainage works is implemented. They note in virtue of the written wording of condition 31, preventing all on-site works, it is in principle not possible to achieve the discharge of condition 22 until condition 31 is satisfied. The above conflict notwithstanding, for the purpose of condition 22, we strongly advise that no surface water drainage works are installed until site remedial requirements as fully understood.

Further comments 25.05.2023

Condition 22 (drainage)

They query whether the EA is an appropriate consultee in the instance of this application. As you'll appreciate whereby drainage is in focus, the EA's primary concerns are for matters pertaining to the protection of controlled waters, whereby a notable interaction a 'main river' designated watercourse is intended or whereby potential for detriment to overall WFD objectives is possible via a development proposal. In the instance of the Bennett Street site... the alterations to Corn Brook and Black Brook are unlikely to result in any material change to their WFD status (no significant change versus current status quo) and potentially in the instance of Corn Brook represents a partial improvement in circumstance (easement to Corn Brook to be provided) furthermore, they note that it does not appear that as part of the site's proposed foul/surface water drainage system there is an intention to utilise any substantial form of infiltration drainage (although some infiltration will occur in open green spaces). In terms of connections into the surface / sub-surface watercourses in question (Corn Brook and Black Brook) these are both designated as 'ordinary watercourses' and therefore fall under the jurisdiction of the council (LLFA leading) in the first instance and finally foul is to be routed to UU main sewer in alignment to good practice drainage hierarchy. In virtue of the above, they advise that consultation and commentary on condition 22 is sought from the LLFA in the first instance rather than the EA. However, if they have any concerns which they believe potentially interact with EA remit/environmental focus, then they welcome the opportunity to discuss this further.

Condition 11a (ground conditions / remedial strategy)

Advise they will look to provide review/response on the e3p ltd remedial and enabling works submission ASAP as requested. However, they would initially note for awareness that the remediation and enabling strategy report submitted (dated July 2022) pre-dates recent EA technical advice and guidance provided by the EA (on 26th April 2023) to the e3p ltd under chargeable planning agreement whereby they outlined to the Bennett Street project team that additional ground investigations and re-assessment of risk to controlled waters would be necessary which in turn would very likely warrant alteration to remedial strategy requirements.

Further comments 31.05.2023

Comments provided following consultation due the submission of the following additional documentation pertaining to the requirements of condition 11a (ground conditions) attached to 134504/FO/2022:

1. Remediation and Enabling Works Strategy, Bennett Street Manchester. Prepared by e3p ltd. Report Ref: 15-425-R2. Dated July 2022.
2. Letter Report – Bennet Street Manchester. Discharge of Condition 11a Planning Permission 134504/FO/2022, Response to EA Comments Received 19th April 2023. Dated: 11th May 2023.

To inform their updated position statement(s) set out below, their Groundwater and Contaminated Land (GWCL) Team have undertaken a review of the items [1] and [2] listed above with regards to matters associated with the protection of controlled waters resources. Additional to the above documentation review items, further to the contents of their previous response letter for CDN/23/0239, please also see detailed below further EA commentary on the present Construction Environmental Management Plan (July 2022) submitted by the applicant/agent in support of discharging Condition 3 (Construction Management Plan) attached to planning permission 134504/FO/2022.

Environment Agency Position (Updated) Advise they are unable to recommend the discharge of either condition 3 and 11a attached to planning permission 134504/FO/2022. At present, insufficient information has currently been submitted to enable them to reach a determination as to whether, in its progression/commencement, suitable and sufficient measures will be implemented/undertaken to ensure the protection and enhancement of controlled water resources is achieved.

Condition 11a - e3p Ltd Remediation and Enabling Works Strategy -15-425-R2 (July 2022)

As context to the below commentary, separate to this formal consultation for CDN/23/0239, as part of their preliminary chargeable planning advice service, they have been providing advice and guidance to the developers chosen environmental consultant. Through this preliminary service the EA has been sighted on a series of ground investigation reports pertaining to the requirements of condition 11a. They advise that the remedial enabling works strategy subject of this formal consultation pre-dates a series of additional ground investigation undertaken for the development site in question (stemming from preliminary EA advice and guidance). In conjunction with this they note that the current iteration of the remedial strategy does not account for the aforementioned additional ground investigations in contents. Wider to this, as part of separate preliminary advice post-dating this remedial strategy (issued 19th April 2023) they have advised the applicant/agent and their chosen environmental consultation that further ground investigation are necessary to ensure matter associated with the protection of controlled waters are fully accounted for as part of any subsequent remedial strategy iteration developed. The above matter notwithstanding, as general advisory, they note to attention of the applicant/planning agent the written requirements of condition 11a. In its wording this condition requires as prerequisite to the submission of remedial measures (strategy), if deemed required, the submission any/all ground investigation reporting used to inform any such remedial approach developed (with the exception of preliminary risk assessment material). In line with the above, for any future discharge of condition application submission(s) made for condition 11a, they advise that any ground investigation reporting to formulate the basis of a remedial strategy sought for approval must also be formally submitted; such reporting will form part of the formal evidence base for any subsequent planning recommendation made by the EA and potentially, in turn, formal condition discharge determination made by the LPA. In conjunction with this, it should be ensured that all formal submissions are understandable to any third-party reviewer i.e. is not dependent upon correspondence for which only one party and/or regulator has been sighted.

EA Commentary – Condition 11a – e3p Ltd Letter Report Response to EA 19th April 2023
They note the attention of the applicant/agent that there appears to be clerical errors within the contents of this letter report. In its titling the report refers to EA commentary received on the 19th April 2023. They believe this title to potentially be a human error noting that the latest EA preliminary advice and guidance provided under chargeable planning agreement ENVPAC/1/GMC/00438, issued to the external development project team, was dated the 26th April (as also further referenced within the main text of the letter report itself). For future occurrences, they ask that the applicant/agent seeks to ensure that any clerical errors which could create confusion are addressed prior formal planning submission.

Regarding the contents of this letter report itself, whilst they welcome response to the EA's preliminary review/response letter (issued on the 26th April 2023) and advise the applicant/agent that (under chargeable planning agreement ENVPAC/1/GMC/00438) they will to provide substantive response to this letter report in due course, and do not consider (in isolation of wider relevant reporting submission and relevant written correspondence) this a suitable formal submission for addressing the requirements of condition 11a. They advise that any further subsequent formal submission made in support of CDN/23/0239 or otherwise seek to directly address the written requirements of the condition only. Echoing their general

informative commentary above regarding the need to ensure that all reporting forming the evidence base for a condition are submitted and are understandable, they note to the attention of the applicant/agent and LPA that reporting submissions of the contents of e3p ltd report have not been formally submitted.

They note the absence of the ground investigation reporting (15-974-R1-2, December 2022) to which the EA preliminary review/response letter relates and the absence of the EA's letter (ref: S0/2022/122323-02-L01) which forms the primary item of attention within e3p's letter report.

EA Commentary – Condition 3 – CEMP July 2022 .

They are aware of separate correspondence from the applicant/agent detailing a perspective that, in its requirements, condition 3 does not require the developer to submit details on how construction management practices undertaken on-site will ensure the sufficient protection of controlled water resources / waterbodies is achieved. Addressing the above perspective of the applicant/agent directly, they advise the LPA that they do not agree with this assessment of condition 3. Whilst they note and acknowledge in its written wording condition 3 does not directly specify/list a requirement for the CEMP to detail how protection of controlled waters will be achieved, they also do not consider those listed requirements necessarily represent an exhaustive list of all the matters a construction environmental management plan should seek to address in its contents. This notwithstanding, they note a listed requirement is for the CEMP to identify how dust and mud is to be controlled. Recognising the role of the EA within the planning regime, if further the above the LPA does not consider it appropriate/necessary for the CEMP subject of condition 3 to provide the level of detail sought by the EA, then prior to making a determination on this condition, they ask that further discussion are undertaken with the EA and applicant/agent as to how it will be ensured that protection of controlled waters is achieved through construction of the development. In conjunction with this, they note Regulation 33 of The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017. Expanding on their previous commentary for condition 3 (noting the absence of details on measures to prevent construction water run-off), they further note there is reference within the current CEMP iteration to the placement of stockpiled materials and/or other items in close proximity to known surface watercourse Corn Brook. The diagram presented in Appendix 1 of the CEMP illustrates an intention to place construction compound car parking and material storage areas immediately adjacent to and immediately above (respectively) Corn Brook. Present uncertainty over land contamination remedial requirements notwithstanding (potentially requiring revision to present materials management intentions), it advisable to ensure that whereby an activity carries with it a greater potential risk of adverse impact (unless appropriately mitigated against respective of placement), that such activities are placed/situated as at suitable distance from potential sensitive receptors, this includes WFD waterbodies as well as human receptors.

Further comments 12.06.2023

Officers from the EA have met with e3p ltd to discuss the E3p letter report addressing EA commentary to condition 11a (ground conditions) provided under chargeable planning agreement established for the project and subject their latest formal response to CDN/23/0239. From this meeting, they have agreed that rather than seek the additional ground investigations/sampling at this time that they will be consider it be sufficient for e3p ltd the applicant/developer to prepare a more conservative remedial strategy approach, notably addressing/removed impacted shallow/contaminated groundwater. They have also noted and agreed the importance of ensuring that any excavated materials arising from remedial efforts or otherised are placed at greatest possible proximity from sensitive environmental receptors. To this end, they understand that the developer / Bennett Street project team intends to prepare a remedial strategy addendum (for condition 11a) and updated CEMP (for condition 3) and

formally submit these under CDN/23/0239 in due course. They have also made clear that all 'foundational reporting' supporting the remedial strategy addendum will need to be submitted i.e. the updated ground investigation reporting not yet supplied to MCC / submitted under CDN/23/0239. Upon agreement of a suitable remedial strategy, it should also be possible for the EA to address condition 12 (infiltration drainage) subject of CDN/23/0311.

Further comments 19.06.2023

As context to their updated position statement below, they advise it is their understanding that re-consultation from the EA on this application is being sought in virtue of the additional/revised submissions, listed below, having been made by the applicant/agent to the local planning authority (LPA).

- I. Letter Report – Bennett Street, Manchester. Discharge of Condition 11a Planning Permission 134504/FO/2022 – Response to EA Comments Received 9 th June 2023. Prepared by e3p Ltd. No Report Reference. Dated 13th June 2023
- II. Construction Environmental Management Plan – Bennett Street, Manchester, M12 5NL. Prepared by Kellen Homes. No Report Ref. Dated June 2023.
- III. Remediation and Enabling Works Strategy, Bennet Steet, Manchester. Prepared by e3pl Ltd. Report Ref: 15-974-R1-2. Version2. Prepared by e3p Ltd. Dated July 2022.
- IV. Phase I and II Geoenvironmental Site Assessment, Bennett Street, Manchester. Report Ref: 15-974-R1-2. Version 2 Prepared by e3p Ltd. Dated December 2022.

Environment Agency Position (Updated) –

Condition 3 (CEMP) & Condition 11a (Ground Conditions)

Subject to the reporting submissions detailed above, they have no objection the discharge of conditions 3 (CEMP) and 11a (Ground Conditions) attached to planning permission 134504/FO/2022.

They are satisfied that these conditions have sufficiently addressed their current concerns regarding matters pertaining to the protection of controlled water resources.

Note to LPA – Remedial Strategy Iteration / Contents of e3p Ltd June 2023 Letter Report In connection with their updated position statement above, they note to the attention of the LPA that reference is made within the e3p letter response submission (item I) to the existence of a January 2023 iteration of the Bennett Street remedial strategy (report ref: 15-974). They advise that, to date, the EA has not received or reviewed this iteration of remedial strategy having only received and reviewed the July 2022 iteration (item III). Their position statement above regarding the suitability of discharging condition 11a is based upon items I, III and IV in combination. They have separately advised the applicant and their chosen environmental that should the contents of January 2023 remedial strategy differ materially from that provided listed under item III and be considered to be strategy necessary to employ onsite, that this will be required to be provided to the EA for review and response. In such an instance, they advise the LPA that they will they consider their position statement outlined above to become rendered null and void. They have presently considered it not necessary in this instance for the applicant/agent to provide the January 2023 iteration of the remedial strategy as reference to this within the e3p letter report (item I) is limited with information of relevance to this reference reiterated within the contents of the letter report itself.

Further comments 10.08.2023

Have looked at the values in table 5.2 of the report that Sue attached to the email and the validation values in there bear no comparison to the remedial target values which were calculated, at their request, for the protection of controlled waters.

They have included their report for information. The report that Environmental Health officers have seen appears to be based on default values from human health protection standards; however the EA's are derived from modelled compliance values from environmental protection. The two don't match and the

supporting notes underneath table 5.2 do not mention RTM, Controlled Waters and/or environmental receptors.

Further comments 11.09.2023

Environment Agency Updated Position – Condition 11a (Ground Conditions)

Have reviewed the above listed reports following our involvement with the proposed development and the process of agreeing to environmentally safe and protective concentrations for soils reuse on site.

The EA consider the latest Remediation and Enabling Works Strategy (dated January 2023) acceptable and therefore, our position remains that they are able to recommend the discharge of condition 11a (Ground Conditions) attached to planning permission 134504/FO/2022. The EA would advise the LPA, however, that the Build Phase Contamination Risk Mitigation Strategy (dated August 2023) potentially conflicts with measures required for the purposes of environmental protection.

As a part of their engagement with the applicant and their environmental consultants, they had reviewed and previously agreed a series of soils reuse criteria based on a detailed assessment of risks to 'controlled waters'. Namely the underlying Principal aquifer (compliance point 50m) and the watercourses which flow across the site (compliance point 15m), which, according to the Remediation and Enabling Works Strategy (dated January 2023), is in hydraulic continuity with the Corn Brook at least.

The latest iteration of the Remediation and Enabling Works Strategy (January 2023) notes that further investigation and assessment of the Corn Book and Black Brook is planned. They advise that the provisions in the latest remediation strategy should be sufficient (along with the agreed, managed, materials placement) to achieve appropriate environmental safeguards and that these provisions should be reported in future validation and verification work as required under condition 11(b).

From a review of the Build Phase Contamination Risk Mitigation Strategy (dated August 2023), they note the purpose of the document is to define design requirements for all remediation aspects for the proposed development (Section 1).

Table 5.2 includes target values which appear to be generic and based on industry standardised values for the protection of human health suitable for use concentrations. The EA have compared these with the values the EA agreed for the protection of environmental receptors where the EA have found that many of the public protection values exceed those for environmental protection. They have also identified that the table categorises the values in terms of their placement on site for cover systems. The report does not reference the values derived by the detailed, quantitative, risk assessment nor does it reference the placement of materials within 15m of the surface watercourse which is the more sensitive of the two controlled waters receptors considered.

Therefore, the report does not include mitigation and soils reuse values for the purposes of environmental protection as previously agreed with the applicant and their environmental consultants. They draw this potential conflict of information to the attention of the LPA as the EA may not be in a position to recommend the discharge of condition 11(b) attached to planning permission 134504/FO/2022 in future as the reuse criteria for the purposes of environmental protection may not be met. They would advise that in the event non-compliant material from an environmental protection perspective is used, this would have to be reconsidered and, where necessary, removed and replaced with suitable alternatives.

Therefore, they recommend the Build Phase Contamination Risk Mitigation Strategy, dated August 2023, is revised to reflect environmental protection requirements and previously agreed risk considerations (including reuse/retention values) to ensure uniform understanding for validation / verification purposes (condition 11b).

Further comments 20.09.2023

Have reviewed the submission of a Build Phase Contamination Risk Mitigation Strategy report by e3p ltd for the proposed residential development on land at Bennett Street, Manchester (Reference: 15-974-R3-5) dated Sept. 2023 within the text as well as the Remediation and Enabling Works strategy for the site (ref. 15-974-R2-2) dated Jan. 2023. The report has been reviewed pursuant to the application to discharge relevant conditions attached to planning permission 134504/FO/2022; most notably condition 11(a). They have reviewed the reports following their involvement with the proposed development and the process of arriving at safe and environmentally protection concentrations for soils reuse on site. As a part of this work with the applicant and their environmental consultants they have reviewed and agreed a series of soils re-use criteria based on a detailed assessment of risks to controlled waters (namely the underlying Principal aquifer [compliance point 50m] and the watercourses which flow across the site [compliance point 15m] and are, accordingly to the revised Jan 2023 remediation strategy in hydraulic continuity with Corn Brook at least). They have previously agreed these values and confirmed that condition 11(a) of the same planning permission 134504/FO/2022 could be discharged as a satisfactory series of submissions to comply with the condition requirements had submitted. They additionally note that further investigation and assessment of Corn Book and Black Brook is planned. They believe that the provisions in the reporting thus far should be sufficient (along with the agreed, managed, materials placement) to achieve sufficient environmental safeguards and that these provisions should be reported on in the validation and verification reporting as a part of the requirements for the discharge of condition 11(b). End 2 In reviewing the August 2023 document (revision 5), they note that table 5.2 of the build phase report has been refreshed to reflect the earlier work that they engaged in for the protection of controlled waters. This appears to address the anomaly that they identified to the planning authority in their previous commentary. To affirm though, they continue to stand by their position from earlier comments to the local planning authority in that they are satisfied that there is now sufficient information, from many sources of submissions, that enable us to recommend that condition 11(a) attached to planning permission 134504/FO/2022 can be discharged at this time.

United Utilities – request that the applicant provides all drainage documentation for this application including all cover and invert levels and the outfall in relation to the discharge of condition no.22.

Further comments 30.05.2023

Further to their review of the submitted documents, United Utilities has no objection to condition 22 being discharged.

LLFA- 18.05.2023

Condition no.22 surface water drainage.

The information uploaded to the Planning Portal 06 April to 10 May 2023 has been considered. The following further information is required:

- o A finalised drainage layout showing all components, levels and connectivity, which should be updated to show a legend.
- o Clarity on what the yellow hatches represent on the drawing “S104 AGREEMENT PLAN”.
- o Hydraulic calculation of the proposed drainage system; including evidence that the drainage system has been designed (unless an area is designated to hold and/or convey water as part of the design) so that flooding does not occur during a 1 in 100 year rainfall event with allowance for 45% climate change in any part of a building;

- o Assessment of overland flow routes for extreme events that is diverted away from buildings (including basements). Overland flow routes need to be designed to convey the flood water in a safe manner in the event of a blockage or exceedance of the proposed drainage system capacity including inlet structures. A layout with overland flow routes needs to be presented with appreciation of these overland flow routes with regards to the properties on site and adjacent properties off site.
- o Connection of surface water to the ordinary watercourse will require Land Drainage Consent from Manchester City Council as Lead Local Flood Authority. Consent applications can be arranged by contacting the Lead Local Flood Authority.
- o An assessment of surface water pollution risk in-line with CIRIA C753 and, where required, evidence of pollution control measures (preferably through SuDS) to treat surface water prior to discharge.
- o Construction details of flow control and SuDS elements.

They note that Condition 24 (relating to finished floor levels and flood risk assessment) is not covered by this CDN and therefore remains outstanding.

Further comments 21.06.2023

In the calculations and on the layout, the discharge rate appears to be set to 75 l/s for all design events. They have, however, given permission for variable discharge rates. This means up to 75l/s for the 100 year event, but the 1:1 and 1:30 should be in-line with the equivalent greenfield rates for those events. I have attached correspondence on this which contains the variable rates. As this will affect the submitted package, they recommend returning this comment to the applicant in the first instance so the whole submission can be adjusted.

GMEU – 19.05.2023

Condition 31 – There doesn't appear to be any new information submitted in relation to this condition, so they are unable to recommend the condition be discharged.

Further comments 25.05.2023

The Cotoneaster Removal and control document received 22nd May 2023 is sufficient to discharge the condition.

Highway Services –10.05.2023

In regard to Condition 3 (CMP) a CEMP has been prepared by Kellen Homes Ltd. The CMP details parking, storage of materials, servicing, hoarding, dirt and wheel washing, dust and waste. The information is sufficient to allow them to recommend the discharge of the condition from a Highways perspective.

The contractor should continue to liaise with the MCC Highways and Resilience Team, for associated hoardings/fencing highway licences and any temporary traffic regulation orders for the closures of any highway on a temporary basis. As part of the licensing and approvals process the routing of construction traffic and site access arrangements will be determined.

Environmental Health – 16.05.2023

Condition 11 A cannot be discharged as the appropriate reports have not been submitted.

Further comments 25.05.2023 (Condition no.11a)

In February they asked for additional information before agreeing the Phase II report. They have looked at the additional report and the only outstanding matter, which was highlighted in their initial response, was the additional SI works were still to be carried out under the above ground tank and structure which are still on site. These have not yet been undertaken and they would want to see the results of this before agreeing the Phase II report. From their records, this additional SI work would appear to have not been formally submitted. The remediation and

enabling works strategy, dated July 2022, was reviewed when the application first came in and their response was that it was not sufficient as gas monitoring was ongoing (due to be completed in May 2022, but not included in the remediation strategy) and the additional investigations underneath the above ground storage tanks and the existing buildings also needed to be submitted. The updated results of these investigations have yet to be received. Therefore, from this perspective, the Phase II investigations are not completed and so this element of the condition cannot be discharged. This therefore means that the remediation strategy is not finalised as it can only be completed once all site investigations are undertaken.

Further comments 26.05.2023 (Condition no.3)

Have reviewed the information submitted to discharge the above condition and additional information is required with regard to noise control during development. As a minimum, this section should include details of machinery and equipment to be used and their expected noise levels, the identification of the noisiest activities and who these activities / work may impact, duration of these activities, site wide noise mitigation measures with reference to BPM to be adopted on site specifically for the noisier or more intrusive activities, the maximum site noise level at the site boundary particularly during the noisier activities, details of monitoring including how monitored (continual noise loggers) location of monitoring in relation to receptors, how the site supervisor is alerted if the noise limit is approached or exceeded and details of what action is taken where the maximum site noise levels (once agreed) are approached or exceeded (such as work shall cease until the cause of the exceedance has been identified and where necessary, an alternative method of work established). In addition, the following should be included in the plan: Details of an emergency contact telephone number.

Further comments 27.06.2023 (condition no.11a) based on the following reports:

- Phase I and II Geoenvironmental Site Assessment, Bennett Street, Manchester, E3P, Reference: 15-974-R1-2, Dated: December 2022
- Remediation and Enabling Works Strategy, Bennett Street, Manchester, E3P, Reference: 15-974-R2-2, Dated: January 2023
- Ground Gas Addendum Report, Bennett Street, Manchester, E3P, Reference: 15-425-R3-1, Dated: March 2023

The site investigation now includes the areas of the site that were previously inaccessible and also beneath the above ground storage tank. Recommendations have been made including the installation of barrier pipes, clean cover for gardens and landscaped areas and the installation of vapour membranes.

Outstanding issues/comments to be addressed :

The gas data is odd as there is not a single reading about the limit of detection for CO₂ or CH₄). In the WYG report from 2008, they still class the site as CS1, but they also recorded CO₂ up to 5%v/v and CH₄ up to 0.2%v/v. With monitoring being undertaken over 6 months and response zones in the glacial till, made ground and also targeting some organic matter you would expect something to be picked up by the equipment. They would like further comments/discussion from E3P on this, which should include the calibration certificate for the analyser.

Vapour membranes, however, are to be installed (which will provide a level of protection to CS2), the manufacturer's specification for the membrane is need together with cross-sectional foundation drawings (once the foundations have been decided). This can be submitted after commencement, but before house construction begins.

The SI says that the site will be subject to 0.5m of upfilling, they need to show that this material is suitable for use and also do PID checks for any vapours (with reporting of the results). Fur could not see any reference to the upfilling in the RS so this needs to be added.

These points all need to be confirmed for condition 11a, point 2 could be deferred to after works have started as the foundation details and/or membrane specifications may not be known yet.

Further comments 20.07.2023

This drawing is fine, but the supporting vapour report which E3P have proposed to produce is needed, but this will not stop enabling works commencing as long as it is submitted before construction starts.

Regarding the calibration certificates from Kellen Homes which were forwarded to you on Tuesday, they are dated October and November 2022, after the monitoring was done (January-June 2022), so they are still not what is required.

Further comments 28.07.2023

This is the version (15-974-R3 - Build Phase Enabling Works Strategy - July 2023) that Kellen Homes emailed earlier, there had been some changes to the drawings, the changes do not affect their earlier comments.

Further comments 08.08.2023

Following 15-974-R3-2 - Build Phase Enabling Works Strategy - August 2023

Seek clarification in relation to how they are treating the larger side gardens (as shown in the screen shot) that some of the properties have, they assume these will be treated like back gardens with a deeper clean cover as they could be used for growing food plants? Once this confirmation has come in they will be able to recommend discharge of condition 11a.

Further comments 18.09.2023

Have looked at the revised report and specifically table 5.2, the criteria for the garden cover systems are still as agreed so they can still recommend discharge of condition 11a.

GMAU - 28.04.2023

In accordance with Condition 25, the programme of archaeological work at the former Olympic Freight Terminal has been carried out in line with an agreed and approved Written Scheme of Investigation (WSI), which covers the following requirements:

1. A phased programme and methodology of investigation and recording to include: i archaeological evaluation trenching; ii - pending the results of the above, a targeted open-area excavation.
2. A programme for post-investigation assessment to include: - production of a final report on the results of the investigations and their significance.
3. Deposition of the final report with the Greater Manchester Historic Environment Record.
4. Dissemination of the results of the archaeological investigations commensurate with their significance.
5. Provision for archive deposition of the report and records of the site investigation.

In the first instance, in November 2022, a series of evaluation trenches were excavated across the site by Ecus Archaeology with the intention of establishing the survival, extent and significance of any archaeological remains, especially those deriving from the late 19th-century Bennett's Iron Foundry. A copy of the report presenting the results of the initial trenches has been shared with GMAAS and uploaded onto the Historic Environment Record, and a copy of the report has also been submitted in support of the current application for condition discharge.

The initial evaluation demonstrated that extensive foundations of the former foundry survived intact, and that these archaeological remains were susceptible to being removed by the consented construction works, thereby warranting further archaeological investigation. An open-area excavation was therefore implemented in February 2023, targeted on the key parts of the

former iron foundry, and was brought to a successful completion by Ecus in March. As such, Parts 1i and 1ii of Condition 25 have been satisfied and the fieldwork elements completed; the development site has been 'sterilised' of archaeological remains and GMAAS has no objections to the site being 'handed over' for construction works, which can progress without any further archaeological investigation.

Parts 2 – 5 of Condition 25, however, still need to be addressed; whilst a report presenting the results of the initial trenching has been submitted, Parts 2 and 3 require a final report generated from the open-area excavation to be prepared and deposited with the Historic Environment Record, followed by an appropriate level of dissemination (Part 4) and deposition of the project archive. I have been liaising with Ecus recently and understand that production of the final report is in progress, but I anticipate that it will be several weeks / months before this has been completed. I will keep you updated but, as things stand, GMAAS is only able to recommend partial discharge of Condition 25, based on the successful completion of the fieldwork requirements. They add that the excavation has yielded some fascinating results, including details of how the foundry operated and the range of goods that were produced. I'm sure that some of this data will help to address a couple of the Research Objectives set out in the current North West Historic Environment Research Framework.

Issues

Other Legislative Requirements

Equality Act 2010

Section 149 (Public Sector Equality Duty) of the Equality Act 2010 requires due regard to the need to: Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act and; Advance equality of opportunity between persons who share a protected characteristic and persons who do not share it. The Equality Duty does not impose a legal requirement to conduct an Equality Impact Assessment. Compliance with the Equality Duty involves consciously thinking about the aims of the Equality Duty as part of the process of decision-making.

Human Rights Act 1998 considerations

This application needs to be considered against the provisions of the Human Rights Act 1998. Under Article 6, the applicants (and those third parties, including local residents, who have made representations) have a right to a fair hearing and to this end the local planning authority must give full consideration to their comments.

Protocol 1 Article 1, and Article 8 where appropriate, confer(s) a right of respect for a person's home, other land and business assets. In taking account of all material considerations, including Council policy as set out in the Core Strategy and saved policies of the Unitary Development Plan, the Director of Planning, Building Control & Licensing has concluded that some rights conferred by these articles on the applicant(s)/objector(s)/resident(s) and other occupiers and owners of nearby land that might be affected may be interfered with but that that interference is in accordance with the law and justified by being in the public interest and on the basis of the planning merits of the development proposal. She believes that any restriction on these rights posed by the recommendation given is proportionate to the wider benefits of and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

Recommendation: Approve

Article 35 Declaration

Condition(s) to be attached to decision for approval OR Reasons for recommendation to refuse

Condition no. 3 CMP

3) The Construction Environmental Management Plan dated July 2022 has been examined and is considered to be acceptable. Condition no.3 is discharged on the basis that the measures in the Construction Environmental Management Plan dated July 2022 are implemented and maintained for the full duration of the construction period at the site.

Condition no.11a Ground conditions

11a) The content of the documents referenced below have been examined and is considered to be acceptable.

Construction Environmental Management Plan – Bennett Street, Manchester, M12 5NL.
Prepared by Kellen Homes. No Report Ref. Dated June 2023.

Phase I and II Geoenvironmental Site Assessment, Bennett Street, Manchester. Report Ref: 15-974-R1-2. Version 2 Prepared by e3p Ltd. Dated December 2022.

Bennett Street Discharge of Condition 11A planning ref: 134504/FO/2022 Response to Environment Agency comments received 9th June 2023 by e3p dated 13th June 2023, received 15th June 2023. (Notwithstanding reference to E3P Remediation Strategy (ref: 15-974) dated January 2023).

Ground gas Addendum Report Ref: 15-425-R3-1 Dated March 2023 received 26.06.2023

Gas membrane specification and cross section through foundation received 13.07.2023
Gas Calibration certificate received 21.07.2023

Email from Kellen Homes dated 08.08.2023 confirming the increase of the capping layer by 150mm to 600mm within the side curtilages to the following plots;
135, 139, 49, 47 and 33.

Remediation and Enabling Works Strategy Report Ref: 15-974-R2 Version 2 Date Issued: Jan 2023 prepared by e3p. received 011.08.2023

Build Phase Contamination Risk Mitigation Strategy report by e3p Ltd for the proposed (Reference: 15-974-R3-5) dated September 2023 (on inner page of document).

On the basis that the development is implemented in accordance with the content of the documents referenced above , I can confirm condition no.11a is discharged

Condition no. 25 Archaeology Part 1 i and 1 ii

25) 1i and 1 ii) The Archaeological Evaluation Report ref : 22-71 Version 1 dated January 2023 has been examined, together with the Written Scheme of Investigation for a Programme of Archaeological Investigation Document No: 3612.R01 February 2023. On the basis of the content of Archaeological Evaluation Report ref : 22-71 Version 1 dated January 2023 and the Written Scheme of Investigation for a Programme of Archaeological Investigation Document No:

3612.R01 February 2023, parts 1(i) and 1 (ii) of condition no. 25 are discharged , and construction works can progress without any further archaeological investigation.

However, condition no.25 cannot be formally discharged until parts 2 to 5 of the condition requiring a report presenting the results of the initial trenching to be submitted, together with a final report generated from the open-area excavation being prepared and deposited with the Historic Environment Record, followed by an appropriate level of dissemination (Part 4) and deposition of the project archive have been actioned.

Condition no. 31 Invasive species

31) The Preliminary Ecological Investigation ref: 19414 Version 0.1 dated June 2022 Section 4.5.1 (Non Native species) received 6th April 2023 and Cotoneaster Removal and control document received 22nd May 2023 have been examined and are considered to be acceptable.

On the basis that the development is implemented in accordance with the Preliminary Ecological Investigation ref: 19414 Version 0.1 dated June 2022 Section 4.5.1 (Non Native species) and treatment measures in the Cotoneaster Removal and Control document , condition no.31 is discharged.

Appendix 1 – List of consultees & neighbours notified

Highway Services
Environmental Health
Neighbourhood Team Leader (Arboriculture)
MCC Flood Risk Management
Environment Agency
Greater Manchester Archaeological Advisory Service
United Utilities Water PLC
Greater Manchester Ecology Unit

Appendix 2 – Planning constraints

[illegible]