

Planning

Growth & Development

Delegated officer report for planning application

Application no. CDN/22/0534

Date registered valid: 4 August 2022

Proposal: Discharge of condition 56 (additional ground investigations) attached to planning permission referenced 131895/JO/2021

Address: Coleshill Street, Manchester, M40 8HH

Ward(s): Miles Platting & Newton Heath Ward

Applicant: Mr Christopher Langdon EQUANS Services Ltd & Landcare (East Manchester) Ltd 6 Bevis Marks, London, EC3A 7AF

Agent (if any):

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

Recommendation: Approve

Date of recommendation: 17 November 2022

Application details

Type of application: Approval of condition application

Development type: Notifications

Date of site visit:

Standard consultations:

Printed: 9 August 2022 Expired: 30 August 2022

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

Environmental Health – 26.08.2022 - Advise they have considered the contents of the information in :

Former Manox Site – Miles Platting Supplementary Site Investigation Requirements, E3P, Ref: 13-887-L2 Date: 23rd June 2022

Former Manox Site – Miles Platting Supplementary Site Investigation, E3P, Ref: 13-887-L8 Date: 26th July 2022

From reading the documents they cannot recommend discharge of condition 56 for the following reasons:

The proposals for the additional SI are dated June 2022, yet the additional SI appears to have been undertaken in 2021 prior to the writing of the proposals. Either the documents are dated wrongly or there is further data missing from June/July 2022.

The additional site investigation report includes a plan showing all the previous site investigation locations, but not the recent investigation, so it is not clear where TP801-816 and TT801-805 are located on site and why their locations were therefore selected. The proposals said that the additional trial pits would be to depths of between 3m and 4m bgl, yet all but TP803 are shallower than 3m with no justification for the change in depths. TT801-805 were excavated to delineate the tar channel but it is not clear from the report if location of this structure has found and its extent delineated. The controlled waters assessment makes some vague comments about DNAPL and linking this to previous SI results, but this does not seem to be said with confidence and further SI is required to locate the tar channel and any impacts away from the tar channel too. Further site investigation of this feature is required including any potential connections to surface water courses (canal, shooters brook).

The SI has all been focussed on the Manox site and no further investigation has been taken on the boundary with Zones 5 and 7, there is a risk that the Manox site is impacting this land, yet this has not been determined nor has any context been applied to why the additional locations have been selected.

No further sampling has been undertaken for Carbon Disulphide, nor has it been encountered. There is still a likelihood of it being present given the historical records of carbon disulphide being found on site.

The additional SI has concluded that there are 'unacceptable degrees of theoretical risk' but there is no DQRA as previously requested.

The additional SI has not really added to the data that we had already and there are still unknowns, which are not helped by the vagueness of the report and the lack of updated site plans (with the new SI locations and adding further detail to the location of historical on site structures such as the tar channel)

Updated comments 06.09.2022 - Further to the recent meeting and the updated documents/comments from E3P they can update their comments to allow the discharge of condition 56, but with the following caveats (connected to other conditions).

Whilst they can accept the reasoning for no further sampling for carbon disulphide based on the data to date there is still a chance that it may be present on site (within the tar channel for example as this structure still has not been found) and the risks of which will need to be covered in conditions 57 and 58 (worst case scenario should any signs of its presence be encountered during the enabling/remediation works and how this is will be dealt with).

There are still data gaps related to the location of the tar channel and ground conditions below obstructions/hydrocarbon/water ingress/unexpected contamination in zones 5 and 7. Post demolition/remediation gas and vapour monitoring also needs to be undertaken to confirm if CS₂ is still applicable and/or if hydrocarbon membranes are required in properties. Therefore, further SI still needs to be undertaken as the remediation works progress and the details of which, including whose responsibility it is to undertake, need to be included in the detailed remediation strategy (condition 58) to ensure that these works are undertaken and how/when the findings will be reported.

The updated risk assessment (condition 57) needs to also include reasoning for not undertaking a DQRA (cost benefit analysis) and the choice of using betterment instead. As discussed in the meeting the current proposals for betterment are not acceptable and the aim should be for 90-95% betterment or removal where this cannot be achieved (i.e. 30% betterment is not acceptable for the 10% of the most contaminated material and this material should be removed from site).

The detailed remediation strategy (condition 58) needs to include the need for a full-time site presence from E3P during the remediation works (as stated would be the case in the meeting). Either McAuliffe need to submit their own detailed remediation strategy or the E3P strategy needs to be clear that it has been jointly written and agreed with both parties prior to submission

(to ensure that the responsibilities of both E3P and McAuliffe are clear prior to the remediation works commencing).

The detailed remediation strategy (condition 58) needs to include other matters such as dealing with odours that will arise during the removal of obstructions and excavation of such materials.

This is a very sensitive site with residents and a primary school in close proximity.

The detailed remediation strategy (condition 58) ideally should also include contact details for key people on site should any issues/complaints occur and MCC/EA need to speak to someone directly.

Updated comments 29.09.2022 – the email 26.09.2022 from E3P addresses my concerns, and it is noted that the reports are being resubmitted.

Updated comments 11.11.2022 – Having looked at the latest iterations of the reports and they can recommend discharge of condition 56.

Environment Agency – Comments 01.09.2022

As detailed within the covering letter associated with this application (prepared by Equans, dated 03rd August 2022) it is the understanding of the Environment Agency that the applicant is seeking, as submitted, the full discharge of condition 56 attached to planning permission 131895/JO/2021. They note condition 56 relates to the further site/ground investigations identified as required (specified within letter 13-887-L2, dated June 2022), to ensure comprehensive site characterisation and thus enable development of an effective remedial strategy and discharge of subsequent relevant conditions associated with the 131895/JO/2021 permission.

To inform their position statement below, their Groundwater and Contaminated Land (GWCL) Team has undertaken a review of the following current reporting submissions with regard to matters associated with the protection and enhancement of controlled waters:

- Letter Report – Former Manox Site, Miles Platting. Supplementary Site Investigation Requirements. Prepared by e3p. Report Ref: 13-887-L2. Dated 23rd June 2022.
- Letter Report – Former Manox Site, Miles Platting. Supplementary Site Investigations. Prepared by e3p. Report Ref: 13-887-L8. Dated: 26th July 2022.
- Various associated development and investigation log data linked to 13-887-L8 reporting.

Environment Agency Position - Condition 56 – Additional Ground Investigation)

As submitted, they are unable recommend to the local authority the discharge of condition 56 attached to planning permission 131895/JO/2021.

Further additional and revised reporting submissions is required to satisfy the requirements of this condition and achieve the comprehensive site characterisation required to enable the effect progression and development of a detailed remedial strategy.

They consider their position to be in accordance with the guidance outlined within paragraph 174 of the National Planning Policy Framework (NPPF).

The current submissions made for the purpose discharging of condition 56 do not meet the standard expected and required by the Environment Agency to enable effective assessment and determination as to the suitability of discharging condition 56.

Their current review has identified a series of deficiencies and potential discrepancies. In particular, they have identified the following issues with the current submissions made:

- The requirements letter report (13-887-L2) defines the scope and level of work that is required for this site; identifying the range of contaminants of concern that they expect may presence within the site based on its known industrial legacy, previously reviewed reporting and prior historic discussions held regarding the development

site.

In association with this, analysing the lab results provided, testing for potential presence of Carbon Disulphide appears to not have undertaken, despite this being specified within the requirements letter (13-887-L2) and having also been identified as being required as part of prior discussions undertaken.

- The outline of the proposed works (delineate the extent of the former tar channel, its contents, chemical makeup and the chemical classification of soils denoted as 'blue / green stained') is clear within the scope requirements letter (13-887-L2) but, having assessed the actual works undertaken in association with this series of requirement, they consider that the subsequent reporting (13-887-L8 various associated logs) presented in association with has failed to sufficiently address this.

Limitations of current investigations notwithstanding, for the additional investigations which have been undertaken, they consider that the report (13-887-L8) presented has also insufficiently assessed and considered the results obtained.

- They note from the trial logs provided that additional ground investigation appears to be undertaken in late 2021 (see trial pit log TP801 as example) but the covering narrative is dated mid-2022. They query as to if this reflects the work undertaken by e3p ltd or if this variation of dates is a simple discrepancy.
- They are concerned that despite the proposals identified with the requirements report (13-887-L2) to extend the further additional investigation points to between 3 and 4 metres depth, most trial pits undertaken/presented as part of the condition 56 submission extend to a significantly lesser depth (see results of TP814 as example). Factoring the intention of condition 56 is enable comprehensive site characterisation, they advise that limitations of these current investigations is a missed opportunity to identify and delineate the true extent of vertical contamination. In association with this concern, they note the observations of discolored material within several trial pits presented as part of this submission – full characterising the extend of this contaminant will be critical to ensuring an effective remediation and, in turn, successful verification.

In light of the above, they advise that these 'information gaps' should be addressed prior to the further consideration of any detailed remedial requirements / development of a detailed remedial strategy due to their potential to alter the scope of work required. Without undertaking additional investigation work there will be much greater emphasis placed on the remedial activity and much greater depth of scope / 'conservative approach' to remediation required as part of ensuring that any possible risks to the environment and proposed development are effectively dealt with during the remediation phase. They advise the applicant that a 'conservative approach' rather than well-informed targeted approach to remediation can potentially result in protracted timeframes.

- The latest series of trial pit and trial trench locations (TP8XX series) do not appear to have been mapped (not present within Depth of Made Ground Plan). Consequently this limits their ability to assess the results and conclusions of investigations undertaken, in particular assessment as to whether the tar channel previously identified has been fully delineated. The location of trial pit/trench locations should be clearly defined and submitted as part of the documentation for CDN/22/0534.
- The supplementary report (13-887-L8) lists two figure five's; one dated 4-Feb-2020 and another dated 3-Aug-2020. The earlier diagram five shows there to be considerable depth of made ground that extends from the Manox area into the other two zones. Given the limitations of current mapping submissions, and thus ability to understand the known location of the trial trench, we note there may be a possibility that this made ground material could be offering a preferential pathway for the migration of contamination. This should be addressed as part of updated/revised submissions.

- They are disappointed that despite the additional '2021' ground investigation having clearly identify significant concentrations and types of contamination (evident from trial pit/trench photographic evidence) with the Manox areas of the site, as part of subsequent reporting presented (13-887-L8) limited associated risk assessment and analysis of results has been undertaken. The current submission in summary simply states the need for development of a detailed remediation and geotechnical earthwork strategies.

They anticipate that the limitations of this assessment (consideration of risk) will hinder further discussions required in association with the development of a detailed remedial strategy due to uncertainty as to whether the existing assessment of site risk(s) is still valid or whether significant revision is necessitated which in turn may impact upon subsequent remedial approach.

Updated comments 13.09.2022

Have undertaken a review of the following revised/updated submissions (uploaded to the planning portal 05/09/2022) with regards to matters associated with the protection and enhancement of controlled waters:

- Letter Report (Revised) Addressed to Environment Agency – Former Manox Site – Miles Platting Supplementary Site Investigation. Prepared by E3P Ltd. Report Ref: 13-887-L8. Dated 26th July 2022.
- Letter Report (revised) Addressed to Environment Agency – Former Manox Site- Miles Platting Supplementary Site Investigation Requirements. Prepared by E3P Ltd. Report Ref: 13-887-L2 Dated 13th November 2020.

In relation to reporting 13-887-L8 and 13-887-L2 detailed above, they note that there appears to be a discrepancy in the dating which the reporting was produced when cross-compared against the previous iterations of these reports submitted (previously uploaded to planning portal 4th August 2022).

Conscious of recent discussions with the developer and their chosen environmental consultant, they consider, in this instance, that the discrepancy noted is likely to be an administration error by the environmental consultant and that in both instances the latest iterations of these reports are in fact intended to be dated for a period within late August / early September 2022.

They advised that for the purpose of any subsequent determination of CDN/22/0534, to avoid confusion, amended versions of the 13-887-L8 and 13-887-L2 reporting are requested from the applicant/agent detailing the iteration/revision and correct date of production. Provided is confirmed that any further iterations of these reports are solely addressing the dating/iteration discrepancy highlighted, then they advise that no further formal re-consultation with the Environment Agency will be necessary as position will, in virtue of this, remain as presented below.

However, for their record purposes they request that they are notified upon the submission of updated iterations of the 13-887- L8 and 13-887-L2 rectifying the administrative error noted. Further the above, they advise that as part of this updated EA position response they have not undertaken a detailed review of the following submission:

- Stabilisation / Solidification Treatability Report. Manox Site. Prepared by McAullife Civil Engineering Limited. Report No: MC2906 Manox S/S Treatability. Dated July 2022.

They note that this treatability report appears to be within 'DRAFT for comment' status and therefore question whether it was intended to be submitted formally as part of the evidence basis for CDN/22/0534.

Environment Agency Position (Updated) - CDN/22/0534 – Condition 56 (Additional Ground Investigation)

Having reviewed the contents of latest submissions, we advise that we have no objection to the discharge of condition 56 attached to planning permission 131895/JO/2021 for matters associated with the protection of controlled waters. Further to the contents, advice and guidance of previous letter (SO/2022/122397/01-L01), they note that no further additional site investigations have been undertaken at this stage in proceedings. However, following subsequent meeting conversations in which they collectively discussed the likelihood of further additional investigations (at this stage of proceedings) yielding beneficial results and furthering effective characterisation of the site and, in absence of this, need for the development of a comprehensive remedial strategy (which offers an approach which will sufficiently address any remaining uncertainties), they are recommending the discharge of condition 56 on the basis that the submissions provided as part of CDN/22/0534 can be considered to meet the strict wording requirement of condition 56.

In aiding this determination, it is our also their furthering understanding from discussions that the developers environmental consultants have undertaken additional ground investigations (based on the information already provided, the outline remediation scheme and the remediation phasing plan) to address information gaps identified.

Please below see a further summary of the discussions referenced which have been factored as part of their determination.

5th September 2022 Meeting Discussion Summary

During the joint meeting held on the 5th September 2022 they discussed with the external project team that presence of drawbacks and omissions to the supplementary ground investigation work presented as part of CDN/22/0534.

In turn, following associated discussions regarding the written requirements of condition 56 and possibility of further investigations in association with this condition being inconclusive, they were assured by the developers chosen environmental consultant that issues collectively highlighted by the Environment Agency and Manchester Environmental Health Officer had been noted and would be addressed by the developers chosen remediation contractor; either through additional work led by them or via the inclusion of appropriate (and where necessary conservative) measures specifically written into the detailed remediation and implementation strategy.

The detailed strategy and wider associated reporting (detailed risk assessment and remediation phasing plan) will require prior approval prior to the commence of development (excluding Phase 0 works). They therefore consider that this affords appropriate opportunity to address the known limitations of current reporting formally presented in support of the development proposal / as part of CDN/22/0534.

Further to the above, it is understood from discussion with the developer that the detailed remedial strategy referenced will form part of a subsequent application made addressing collectively pre-commencement conditions 57 (detailed risk assessment), 58 (detailed remedial strategy) and 54 (detailed phasing plan) attached to 131895/JO/2021. They request that we are consulted on any subsequent application made in association with these further conditions.

Updated comments 14.11.2022.

Re-referral for this application was received on the 2nd November 2022.

As part of this re-consultation the EA have advised on the submission of the following revised reporting submissions by the applicant/agent:

- Former Manox Site – Miles Platting. Supplementary Site Investigation. Prepared by E3P. Report Ref: 13-887-L8.RevA. Dated: 3rd October 2022.
- Former Manox Site – Miles Platting. Supplementary Site Investigation

Requirements. Prepared by E3P. Report Ref: 13-887-L2. RevB. Dated: 3rd October 2022.

From wider correspondence and in association with previous commentary raised within the EA's prior formal response letter for CDN/22/0534 (EA letter: SO/2022/122397/02-L01), they understand the primary intention of these revised reporting submissions is to ensure clarity is achieved as to the iteration of reporting deemed acceptable.

As identified with their previous formal letter response and wider associated correspondence, due to a report production date discrepancy (newer reporting pre-dating older revision) a potential risk was identified of confusion arising regarding what iteration of reporting was deemed correct/intended for formal approval (a reviewer would presume the latest dated iteration of report to be the most recent iteration).

To rectify the above matter, they understand that the applicant's chosen environmental consultant has provided the latest iterations of the two reports in question with unique reference numbers (see reporting listing above) which offer iteration/revision clarity.

It is their understanding that this reporting revision exercise has not sought to alter the conclusions or technical contents of previously reporting submission of approved (under EA letter: SO/2022/122397/02-L01). However, they note and acknowledge that as part of this revision/clarity exercise the applicant/agent has utilised this as an opportunity to consolidate within the revisions associated appendices/data (previously submitted as wider separate evidence for CDN/22/0534).

In virtue of the above (no material alteration to reporting technical report), their previously relayed position of no objection to the discharge of condition 56 attached to planning permission 131895/JO/2021 remains extant (as detailed under EA letter: SO/2022/122397/02-L01)

As per their previous response letter, it remains their understanding that subsequent submissions made by the applicant/developer for the wider pre-requisite land contamination conditions associated with 131895/JO/2021 (noting submission of 'live' application CDN/22/0742 regarding conditions 54, 57 and 58 for which EA review and consultation has been sought) will seek to address the known and previously discussed limitations of reporting (data) presented for condition 56. With respect to the matters associated with the protection and enhancement of controlled waters, they consider this approach acceptable in virtue of the control provided by conditions 57 and 58 which requires the submission of a detailed risk assessment, remediation options appraisal and remedial strategy.

The Coal Authority - The application site does fall within the defined Development High Risk Area. However, on the basis that the condition is not specifically relevant to coal mining issues, the Coal Authority has no comments to make.

Issues

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

56) The contents of the reports referenced below have been examined .

- Former Manox Site – Miles Platting. Supplementary Site Investigation. Prepared by E3P. Report Ref: 13-887-L8.RevA. Dated: 3rd October 2022.

- Former Manox Site – Miles Platting Supplementary Site Investigation Requirements, E3P, Ref: 13-887-L2 rev.B Date: 3rd October 2022

On the basis of the contents of the reports and appendices specified above, and that the development is implemented in full accordance with the measures within the reports, I can confirm that condition no.56 is discharged.

Appendix 1 – List of consultees & neighbours notified

Environmental Health
Environment Agency
The Coal Authority

Appendix 2 – Planning constraints

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4

Aircraft Safeguarding Zone - Aircraft Safeguarding - Not Affected

Site of Biological Interest - Name: Rochdale Canal, Stott's Lane - Ducie Street Basin

Coal Authority - Development High Risk - Name: DEVELOPMENT_HIGH_RISK_AREA

Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA

Coal Authority - Surface Coal Resources - Name: Coal bearing strata at surface

HSE COMAH Zone - H1485 MZ - Bradford Road Holder Station (East) Middle Zone

HSE COMAH Zone - H3595 OZ - Bradford Road Holder Station (West) Outer Zone

HSE COMAH Zone - H1485 OZ - Bradford Road Holder Station (East) Outer Zone

Hazard - Degussa Limited

Historic Landfill Site 250m Buffer -

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Less) -

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Susceptible to Surf Water Flood (Less) -

Area Team Boundary - Name: NORTH AREA