

14 October 2015

By Email: [planning@oxford.gov.uk](mailto:planning@oxford.gov.uk)

working locally and nationally to  
protect and enhance a beautiful,  
thriving countryside for everyone to  
value and enjoy

Dear Sir/Madam

**REF: 14/03013/CONSLT**

**CPRE Oxfordshire response to Environmental Statement Addendum for Castle Mill development, Roger Dudman Way:  
Comments in relation to CHAPTER 10 GEO-ENVIRONMENT & RELATED APPENDICES**

### **SUMMARY**

We note the clear summary in Appendix 10.1 of the Risk Management Processes in relation to the development of the Castle Mill 2 site, a former railway siding. We welcome the recognition of the high to moderate risk to human receptors due to the presence of contaminants such as asbestos, hydrocarbons and heavy metals. The risk assessment also identifies a pollution pathway (eg inhalation and dermal digestion) indicating how human receptors such as construction workers, neighbours and future occupants could be affected.

**However we are requesting that Oxford City Council reject the narrative of this summary.** The impression is given that the information was submitted in a timely fashion. This is not correct, as the City Council has confirmed in a timeline (Officers report, Sept 2013). These reports were submitted well after the start of the development. This means that the University was, and still is, in breach of the contaminated land planning condition because the City Council had not approved a remediation strategy. Phase 1 Desktop Contamination Survey dated July 2011 was submitted in October 2012, and the Phase 2 Intrusive Contamination Survey was submitted in March 2013, both after the buildings were up. Furthermore, in his letter to the Council of April 2013, Oxford University's Agent Terry Gashe confirmed that the Intrusive Survey was no longer valid. (See Appendix 1.)

We urge the Council to seek clarification from Oxford University as to why these two contamination surveys were not submitted in the pre-development phase. Since they were not submitted in a timely fashion, Members who had the planning documentation before them when they determined the planning application may have believed, erroneously, that the site posed no contamination risk.

**Until the concerns outlined in more detail below are resolved, CPRE believes the contaminated land planning condition cannot be discharged.**

## **FURTHER INFORMATION**

### **10.3.1 Risk assessment at pre-development phase**

It is implied that the Phase 1 Desktop Contamination Survey from July 2011 and the Phase 2 Contamination Intrusive Survey from October 2011 were submitted in a timely fashion. However both documents were submitted much later, when the development was well under way. Crucially, they were not available to the City Council and to Members when they resolved to give planning permission for the Castle Mill 2 site in February 2012.

- 1) The City Council has documented that the Phase 1 Contamination Survey was submitted in October 2012 after planning permission was issued in August 2012. (Timeline in the Officers' Report to the West Area Planning committee, September 2013). The Phase 2 Intrusive Contamination Survey dated October 2011 (GRA) was only submitted in March 2013.
- 2) Oxford University's Agent Terry Gashe wrote to Oxford City and stated that the GRA was no longer valid following the start of the works. Oxford University and Oxford City Council confirmed that work started in Spring 2012 before planning permission was issued in August 2012. As no pre-commencement remediation strategy was agreed between the City Council and the University before the development started, the University was, and still is, in breach of contaminated land planning condition.
- 3) The Appendix refers to the not dated "Quantitative Calculations undertaken at GRA stage" which recommends remediation. This assessment also gives the impression that it was submitted before the development started. This is not correct; it was only submitted to the City Council in May 2013 when the buildings were up.
- 4) It is therefore disingenuous to imply that these three documents were available at the pre-development stage. Members, when determining the application, had only before them the following documentation which implied that there was no contamination risk:
  - a) A planning application form which stated that the site was not contaminated, did not pose a contamination risk and that the end users of the site "students" were not vulnerable. Please note that the later published risk assessment identifies students as receptors who were at high to moderate risk.
  - b) An executive summary by Frankhams (November 2011) stated that "elevated levels of heavy metal and hydrocarbons have been identified up to a depth of 2.8 meters but should not produce any hazardous risk to the construction workers or end users provided the correct PPE is used during construction. However please note that a comprehensive Human Health Risk Assessment is currently being completed and will assess all the risks more accurately". There is no record of such a human health risk assessment on the Council's planning portal and this document was not available when the application was determined.

- c) A statement in the Design and Access Strategy (November 2011) para 1.22 page 8:

“a full site ground investigation was carried out and some elements of contamination exist but are not seen as a risk to people”

- 5) A remediation strategy was not submitted and approved prior to the start of the development and therefore the University breached the contaminated land planning condition and still continues to do so.
- 6) In January 2012, Cognition Land and Water, a subcontractor for the University, submitted a request for an Environmental Permit for soil stabilisation works to the Environment Agency (EA). (See Appendices 2 & 3.) It identified environmental and health risks due to the presence of 7000m<sup>3</sup> contaminated soil of which 20m<sup>3</sup> contained asbestos. Measures were agreed such as weekly environmental monitoring and asbestos management. On completion a final report on the environmental monitoring was to be submitted to the EA and the City Council. This final report has not been submitted and there is no record that such monitoring took place. As there are no monitoring records we cannot be sure that there has been no exposure to asbestos and other contaminants.
- 7) The University confirmed that no water suppressants were used during earth works despite January, February, March, and early April 2012 being exceptionally dry (Oxford Weather Observatory).
- 8) The Air Quality chapter of the Environmental Statement describes the air quality impacts of the dust generated by earth works as high annoyance due to the quantity of the soils being moved around. (3.1.4) It also identifies risks to residents living in neighbouring properties such as students in Castle Mill 1, living 15metres from the development site, and those living in Venneit Close and William Lucy Way. (3.1.3) It is entirely possible that asbestos fibres and other contaminants contaminated the dust generated by the excavations, which were up to 4 metres deep. (Cognition Land and Water, CLW, final report June 2012). There are no adequate environmental records available which demonstrate that there was no inhalation/ingestion or other risk due to the presence of asbestos, hydrocarbons or heavy metals etc. Furthermore it seems from photos in the CLW June 2012 report that the construction workers did not wear specialist protective clothes and equipment as expected when working in an environment where asbestos risk was identified.
- 9) There is no reference to the asbestos measures, such as a quarantined skip, referred to in the Environmental Permit.
- 10) When granting planning permission, Members should have had a risk assessment at pre-development stage which confirmed any contamination and identified high/moderate risks for human receptors and recommendations for subsequent remediation. Instead, they only had information indicating that there was no contamination risk to people.

11) CPRE met on January 7 2014 with Oxford University, Frankhams and Adam Boyden from Nicholas Pearson Associates to discuss our concerns regarding the University handling of contamination at the Castle Mill site. We queried why the University did not submit the Phase 1 and Phase 2 in a timely fashion and it was acknowledged by Adam Boyden from Pearson that these reports were submitted after permission was issued. We also shared the attached correspondence with Terry Gashe when he admitted that the Phase 2 risk assessment was out of date when this document was submitted to the Council.

12) It therefore appears that the University was aware of the contamination risk but that this information was not available to the Members of the City Council. We are concerned that this issue is being perpetuated by the implication in the ES Addendum that the Risk Assessments were submitted in a timely way, whilst in fact the Council had not received these papers, outlining the contamination risk, at the time when planning permission was determined by Members. This is a serious matter which needs investigation.

**Before the contaminated land planning condition can be discharged, we believe an accurate narrative of the contamination issues is required, addressing the following questions:**

- 1) Why did the University state, when the planning application was determined, that there was no contamination risk despite evidence to the contrary?
- 2) Why were the Risk Assessments Phase 1 and 2 not submitted in a timely fashion?
- 3) Oxford City Council confirmed that it was aware that the University started the works in February 2012 when the formal permit was not issued until August. Under what terms was this work allowed to proceed ahead of planning permission?
- 4) Why was there a breach in the pre-commencement planning condition on contamination?
- 5) Why was the Environmental Monitoring data and report not requested from Cognition Land and Water?
- 6) In a meeting on 7 January 2014 between CPRE, the University Estates Department, Frankhams and Pearson it was clear that they were aware that the Phase 1 and 2 Surveys were not submitted in a timely fashion. References were made to evidence in the Roger Dudman Way Review and City Council's Officers reports. This matter was also followed up in correspondence. Why, given this awareness, does the Environmental Statement Addendum, written by Pearson and Frankhams and presumably reviewed by the University, contain the erroneous narrative that the Phase 1 and Phase 2 were available at the pre- development stage?

- 7) The University stated, in a response to CPRE letter 5th May 2015, that “no soil asbestos particles were recorded during soil stabilisation process”. How can this have been established when, in the same letter, the University confirmed that they had not been able to obtain copies of the reports?

This is repeated in the ES Addendum Appendix 10.2, Items 6 & 7, which state respectively ‘we have been unable to obtain copies of these reports’ and ‘no Asbestos particles were recorded during the soil stabilisation works’.

This is misleading as at an earlier stage, when the General Risk Assessment was carried out, the presence of asbestos was recorded. Therefore the risk to asbestos exposure needs to be properly addressed.

It seems that there is no record of the environmental report, or indeed evidence that this monitoring was ever carried out. Please note that the work described in the Permit was started in February 22nd 2012, 5 weeks before the Permit was issued (FOI from Oxford University can be provided), while the terms of the Permit, including asbestos management, were still being agreed with the EA (FOI correspondence which can be provided).

- 8) The EA’s ecologist Pedro Collins required, in relation to the Environmental Permit 83671, environmental monitoring which would assess the impacts on Port Meadow SAC. In the absence of any data, how can we be assured that there have been no negative impacts on the nearby (80metres) Port Meadow SAC, SSSI and the grazing animals.

Yours sincerely

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**LIST OF APPENDICES - (Attached to email as separate files)**

APPENDIX 1 - Letter from Oxford University Agent Terry Gashe to Oxford City Council, 29 April 2013

APPENDIX 2 - Cognition Land and Water request to Environment Agency for an Environmental Permit for soil stabilisation works, Jan 2012.

APPENDIX 3 - Environment Agency confirmation of CLW Environmental Permit, April 2012.