

Dear Mike,

Following your recent meeting with Nicolas and Martin we will send a bundle of papers to you, related to contamination at Isles Quarry West, in the First Class post on 21 March. You will notice that some are related to submissions to accompany the planning application and some postdate the conditional planning permission. You will also note that some mention documents that we have not copied. Some of those documents, such as the most recent Committee reports, are already public. If you feel that you need any copies do let us know.

I thought it might be helpful to also make a few remarks about the way planning relates to the issue of potential land contamination.

The planning process is constructed in such a way so a Local Planning Authority can reasonably grant permission on land affected by potential contamination provided that it controls the position by the use of an appropriate planning condition. The precise wording of that condition depends on the specific circumstances and has, inevitably, evolved over time.

The form of condition that we used at Isles Quarry West is typical of that employed for use on sites where contamination may be anticipated or where there is already some knowledge of potential contamination.

The Planning Practice Guidance published online by DCLG, indicates the key characteristics of the process that culminates in a planning condition being utilised to set out the following matters:

- *site characterisation – what is required, including what sort of survey, assessment and appraisal, by whom and how the work is to be presented;*
- *submission of the remediation scheme – what it should include;*
- *implementation of the approved remediation scheme – notification to the local planning authority of when the works will start, validation that the works have been carried out and reporting of unexpected contamination; and*
- *monitoring and maintenance – what is required and for how long.*

Our specialist scientific staff, with detailed experience of dealing with contaminated sites, are in direct contact with Crest's specialists, both URS and others. That is in the interests of good practice, but it is important to say that compliance with the conditional planning permission rests with the developer and neither their technical advisors nor the Council. The fundamental purpose of planning conditions relating to contamination is to set out the methodology and matters that should be addressed in implementing the planning permission. Those matters are for the developer to

observe and to verify to the planning authority that he (the developer) has done so. It does not follow that the planning authority must inspect every measure that is taken on (or off) site. That is a matter for the developer to take responsibility for and to verify.

Looking at the points raised in your email relating to the FoI request the position is as follows:

Record of all excavations on site since work began in early November 2013, including approximate depths and tonnages, and contamination spot checks.

Spot check results (also known as validation samples) will be in the final validation report, based in any original planning drawings. The LPA does not need to know, nor would we be asking for, details of tonnages but the Environment Agency (EA) might well need this detail for waste licensing purposes (This doesn't impact on contamination as validation samples must prove it has all been removed.)

Record of all surveys, sampling, tests and results from the site, including the segregated identified contaminated material

All original sampling is included in site investigations submitted with the original planning applications, available for inspection on the TMBC website at <http://publicaccess2.tmbc.gov.uk/online-applications/simpleSearchResults.do;jsessionid=9B699D4A1F5DBEBB167E1552F3ADDF26?action=firstPage>.

Further investigative detail, post demolition of the skip building/associated hard standings, will be made available in due course and will be posted on the website as above.

Record of the disposition of all materials excavated and their eventual destination.

Typically, contaminated material movements will be documented and reported in the final validation report (and is also likely to be held by EA for Waste Licensing purposes.) It is a normal and reasonable assumption that clean material movements around the site do not need to be documented as they are already proven to be clean and the re-profiling agreed through planning.

Copies of all waste transfer notes

The Final validation report will codify these transfers. The individual notes are *not* required to be submitted to the Planning Authority but you *may* be able to obtain these from the EA)

Copies of all imported fill delivery notes and compliance certificates

Again, the final validation report will codify these transfers. Should you wish for greater detail you may wish to approach Crest.

Details of all subsoil barriers

If this query relates to the geotextile then this will be set out in the final validation report.

Copies of all reports from T&MBC Officers, Environment Agency, Environmental Consultants, Test Laboratories and the developer.

All official reports in the Council's possession and relating directly to the planning process are on planning section of the website, at the link identified above and any further documents will be deposited as they are received, in accordance with the planning condition.

Copies of all correspondence between T&MBC Officers, Environment Agency, Environmental Consultants, Test Laboratories, the developer and all other parties that are relevant to contamination remediation, identification, and disposition.

All other correspondence, notes , reports or other documents that are relevant to contamination remediation, identification, and disposition.

I have enclosed all the exchanges as described in the enclosed bundle of papers.

Copies of all test results for groundwater, existing boreholes and testpits, and Southern Water extraction sites from the aquifer.

The original planning application and final validation report will, in combination, deal with these matters. The EA and Southern Water will hold their own results based on their own responsibilities.

In closing I would like to return to the general points that I made in opening. The approach adopted utilising a staged scheme controlled by planning condition is the conventional approach used successfully nationwide. It must be remembered, however, that in the planning system the National Planning Policy Framework says quite clearly that *"Where a site is affected by contamination...issues, responsibility for securing a safe development rests with the developer and/or landowner."*

The planning system requires a proportionate, evidence based, approach to preventing unacceptable impacts from contamination. In a case such as this the relevant factors include safeguarding the impacts on water resources that might result from development disturbance and the long term protection of new inhabitants.

In the unlikely event that these well established principles and practices were to be found, in the future, to have missed some important factor then the Borough Council possesses remedial powers under the Environmental Protection Act should action prove necessary.

I hope that this clarifies the position in respect of the planning process at the present time..