Customer Quality Team
The Planning Inspectorate
1/23 Hawk Wing
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

Our ref
RXM/PPV/HOM.150-93

Your ref
2228856

4 April 2016

Dear Sir

Land to the east of Hardingstone, Northampton (the Site)

Appeal reference: APP/V2825/W14/2228856

This letter is sent following the call-in inquiry in June 2015 in relation to the site at Hardingstone, Northampton and further to the Secretary of State’s decision on this appeal being issued on 29 February 2016. We act for the appellant in this matter: the Homes and Communities Agency.

On reviewing the Secretary of State’s decision letter (dated 29 February 2016) and the Report to the Secretary of State by Inspector Richard Clegg (dated 15 November 2015), we have identified an error in the detail of a condition attached to the permission now granted. This is in the text of Condition 17, both as it appears in the Annex to the Secretary of State’s decision letter at unnumbered page 10 and in the Annex to the Inspector’s Report at page 61. Condition 17 details the requirement for a contamination investigation to be carried out pre-commencement of development. In doing so, it indicates that this is needed for the part of the site “within the limits of development defined on the Proposals Map of the Fylde Borough Local Plan”. However, the Site here falls under the auspices of Northampton Borough Council (the Council) as the local planning authority.

This is a formal application under section 56 of the Planning and Compulsory Purchase Act 2004 (the Act), by way of which certain errors within decision notices can be corrected by the Inspectorate where it is in the public interest to do so. It is applicable to instances both where the Inspector and/or Secretary of State’s decision document contains a correctable error (s56(1) of the Act).

In light of the above, we send this correspondence on the basis that the ‘slip rule’ is applicable in this instance. We respectfully request that the error in both (a) the Secretary of State’s decision letter and (b) the Inspector’s Report is duly corrected. The first sentence of Condition 17 currently reads as follows:

“17) No development shall take place until a contamination investigation has been carried out on that part of the site within the limits of development defined on the Proposals Map of the Fylde Borough Local Plan as Altered, in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority.”

We propose that the correctable error in Condition 17 should be made, so the condition will read as follows once corrected:

“17) No development shall take place within each phase until a contamination investigation has been carried out relating to that phase on that part of the site within the limits of development defined on the Proposals Map of the Fylde Borough Local Plan as Altered, in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority.”
This is clearly an amendment that is not material, simply ensuring that the erroneous reference to the incorrect geographical/administrative area (and its accompanying local plan) is removed. It also ensures that the condition accurately reflects the phased nature of the development. Phasing is already provided for by way of the phasing plan which will be in place under Condition 7 and is reflected in a number of the other conditions attached, which introduce requirements “for each phase of development”. The correction would not have the effect of altering or varying the decision in any way, in that (1) a contamination investigation of the Site would still be required pre-commencement of development; (2) investigation will be required on a phased basis, reflecting the phased nature of development on the Site; (3) the investigations will need to be carried out in accordance with a particular methodology; and (4) the Council must receive a copy of and approve the methodology before the investigation for each phase of the Site is undertaken.

In addition, this will still ensure the purpose behind the condition (as identified by the parties before Inspector Clegg at the inquiry) is achieved – that is:

- to make sure the potential risk posed to controlled waters is appropriately assessed and mitigated if necessary;
- to ensure appropriate measures are in place before works commence on site in the interests of the environment; and
- to overall ensure accordance with the requirements of the National Planning Policy Framework and Policy BN9 of the West Northamptonshire Joint Core Strategy.

We can confirm the Council have had sight of this letter, by way of correspondence from Mr Julian Frost of the Homes and Communities Agency to Ms Nicky Toon, dated Thursday 31 April 2016. Please find enclosed copy correspondence which confirms that the Council agree with this letter’s contents.

We trust this correction can be made as provided for under s56 of the Act. Accordingly we look forward to receiving a correction notice in due course, accompanied by an amended decision. We trust you will also be able to provide the necessary written confirmation that both will have full legal status and supersede the original decision documents. We understand this is the approach the Inspectorate will adopt, as detailed in Annex P of the ‘Procedural Guide: Planning Appeals – England’ (23 March 2016 edition).

If any further information or details are required, please contact Philippa Plumtree-Varley at the above offices.

We would be grateful if you could acknowledge receipt of this letter.

Yours sincerely

Philippa Plumtree-Varley

Solicitor

For Walker Morris LLP

Enc

cc The Planning Inspectorate, FAO Ms Helen Skinner
Northampton Borough Council, FAO Ms Nicky Toon
From: Nicky Toon [mailto:ntoon@northampton.gov.uk]
Sent: 04 April 2016 14:11
To: Julian Frost
Subject: RE: 2228866 Land East of Hardingsone - Condition 17 draft correction letter [OFFICIAL SENSITIVE]

Julian

I had forwarded this to our Legal Team and Environmental Health for comment. However, I appreciate you are keen to send the letter to the Inspectorate.

The changes proposed are minor and intended to correct an error in the wording rather than the intent of the condition. I can therefore confirm that the Council is in agreement with the amendments to Condition 17 as proposed.

Kind Regards

Nicky Toon
Principal Planning Officer
Development Control
Northampton Borough Council,
Regeneration, Enterprise & Planning
1st Floor, The Guildhall,
St. Giles Sq, Northampton, NN1 1DE
Tel: 01604 837692

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Northampton Borough Council has adopted a Community Infrastructure Levy (CIL) Charging Schedule. All planning applications for liable developments submitted and granted permission after 1st April 2016 will have to pay the levy. The charge only applies to residential development and to retail developments of more than 100 square metres outside the town centre. You can find out more about Northampton’s CIL, including full details of which developments are liable and which are exempt by clicking here:
http://www.northampton.gov.uk
Nicky,

As discussed I attach a draft of the proposed letter to PINS which is seeking to address the error in condition 17.

As you will see from the wording proposed, we have attempted to ensure that the correction takes into account the phased nature of the development that would occur on site – i.e. so that contamination investigations would proceed on a phase-by-phase basis. This approach reflects the approach adopted throughout a number of the other conditions and ensures greater parallels with the condition as originally proposed to Inspector Clegg.

As drafted the letter indicates that the Council have had sight of the letter and are in agreement with its contents. In light of this, would you be in a position please to get back to me to confirm that this is the case? We would propose including such confirmation with our letter but, depending on timescales and in the interests of expediency, we may send our letter to the Inspectorate on the basis that the Council has just had sight of the letter.

Perhaps you could let me have your initial comments early next week?

Kind regards

Julian Frost
Area Manager – South East Midlands
Homes and Communities Agency
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