

Date/Dyddiad: 21 October 2015

Ask for/Gofynwch am: Administration

Telephone/Rhif ffon: (01446) 704657

Your Ref/Eich Cyf:

My Ref/Cyf: P/DC/2014/01487/SC1

e-mail/e-bost: Developmentcontrol@valeofglamorgan.gov.uk

The Vale of Glamorgan Council  
Dock Office, Barry Docks, Barry CF63 4RT  
Tel: (01446) 700111

Cyngor Bro Morgannwg  
Swyddfa'r Doc, Dociau'r Barri, Y Barri CF63 4RT  
Ffôn: (01446) 700111

[www.valeofglamorgan.gov.uk](http://www.valeofglamorgan.gov.uk)



SLR Consulting Limited,  
Fulmar House  
Beignon Close  
Ocean Way  
Cardiff  
CF24 5HF

Dear Sir/Madam,

**Town and Country Planning (Environmental Impact Assessment)  
(England and Wales) Regulations 1999 : Part II Screening Paragraph 5  
Screening opinion - Proposed importation of inert wastes  
at Part of former Ely Brickworks, Woden Park off Cwrt Yr Ala**

The Council has considered the details of the proposed scheme as detailed in the information submitted with the request for a screening opinion as to the requirement for an Environmental Impact Assessment received 16 December 2014.

The Local Planning Authority would advise that in their opinion an Environmental Impact Assessment is not required for the following reason(s):

1. Having regard to the key issues identified in Schedule 3 of the Regulations and WO Circular 11/99, the Local Planning Authority is of the view that the characteristics, location and any potential impact of the development as outlined in the supporting documentation is not likely to be significant upon the environment for the reasons identified in the screening opinion attached.

Accordingly, there is not considered to be a requirement for a formal Environmental Impact Assessment to be submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (as amended).

**NOTE:**

1. Please note that the Council's Screening Opinion comprises this decision letter and the accompanying Screening Report.

Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.

In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).

The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.

Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.

Yours faithfully,

*M. J. Goldsworthy*

Head of Regeneration and Planning

Ermaer Limited, C/o Agent.  
SLR Consulting Limited, Fulmar House, Beignon Close, Ocean Way, Cardiff,  
CF24 5HF

**Part of former Ely Brickworks, Woden Park off Cwrt Yr Ala**

Screening opinion - Proposed importation of inert wastes

TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT  
ASSESSMENT) (ENGLAND AND WALES) REGULATIONS 1999 (as amended)

PARTS II & III, REGULATIONS 5 & 7 – SCREENING OPINION

Background

A formal request for a screening opinion under the above regulations was submitted by agents SLR Consulting Limited on 15 December 2014 on behalf of Ermaer Ltd. for the proposed importation of inert wastes and restoration of part of the land formerly the Ely Brickworks, at Woden Park, Cwrt yr Ala. The area of the site extends to approximately 7.6 ha. Although the Council is required to issue a screening opinion within 21 days of the receipt of the request, no such opinion has been issued to date. In addition it is noted that the applicants have not sought a screening direction from the Secretary of State. Subsequently a formal application has now been submitted by Ermaer Ltd. for the said development which is not accompanied by an EIA, reference 2015/01131/FUL. As such the Council is now required under Regulation 7 of the EIA Regulations to make a screening opinion in line with Regulation 5.

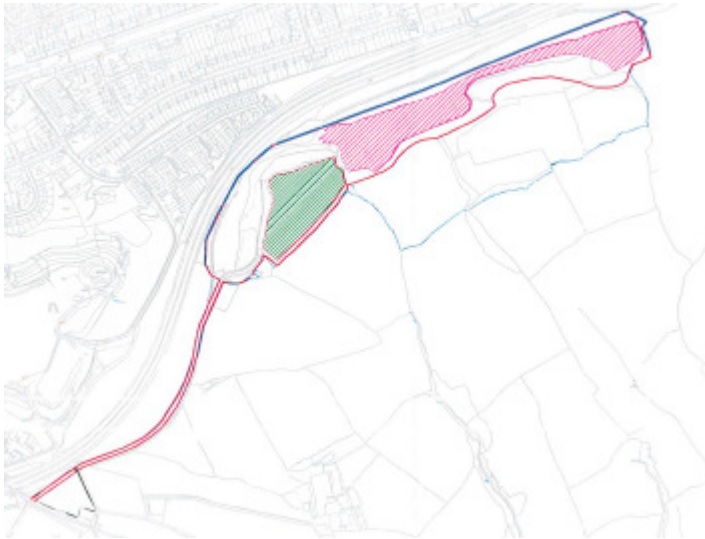
It is considered that the proposal falls to be considered for EIA under Section 11 (b) of Schedule 2 of The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (as amended), which relates to *“Installations for the disposal of waste”*.

The applicable threshold is that the area of the development exceeds 0.5 ha.

In undertaking this assessment as to whether the proposed works amount to an EIA development it is noted that WO Circular 11/99 advises that the basic question to be asked is *“Would this particular development be likely to have significant effects on the environment?”* (para. 32). This assessment has therefore to examine the characteristics of the development (including its size, use of natural resources, quantities of pollution and waste generally), the environmental sensitivity of the site and the characteristics of the potential impact (including its magnitude and duration) (para. 33).

## SITE AND CONTEXT

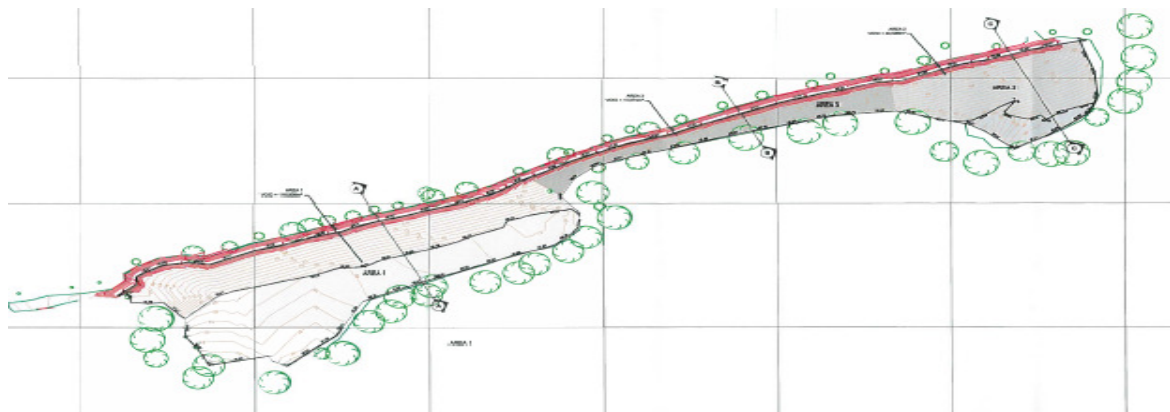
The area defined in red on the accompanying plans comprises an area of overgrown land located immediately to the south of, and at a higher level than, the A4232 Cardiff Bay link road. The site includes an area of the former Ely Brickworks, plus part of a recently established solar park which extends to the south. The site edged red also includes an access track of approximately 750m in length that runs from the Cwrt yr Ala Road, opposite the Caerau Ely football ground.



The site is located in open countryside and within the Cwrt yr Ala basin Special Landscape Area as defined within the Unitary Development Plan. The site also lies within the boundaries of the derelict mineral site, the former Ely Brickworks. In addition it is noted that the Caerau Wood hill fort, which is a Scheduled Ancient Monument, is located to the north of the site within the neighbouring Cardiff County Council local authority area.

## DESCRIPTION OF DEVELOPMENT

The description of the development as outlined in the accompanying information outlines a scheme for the importation of inert wastes, predominantly from the Cardiff and Vale areas, with the progressive restoration of the former mineral working areas within the site.



Initial works will involve the removal of some 60,000m<sup>3</sup> of clays which will either be utilised on site or removed off site for sale. This activity will deepen the pits by between 1m to 6m and will be followed by the commencement of importation of inert wastes at an estimated rate of 30-40,000 tonnes per annum. It is anticipated that the restoration operation will take some 5-6 years to complete. It is predicted that on the basis of 40,000 tonnes per annum of imported material, the average vehicle movements will be 20 per day, with all vehicles entering/exiting via Cwrt yr Ala road. Following completion of the operations the site will be restored to appropriate levels.

## PLANNING HISTORY

2012/01285/FUL - Installation of 5MWp solar PV park on the site of derelict land associated with the former Ely Brickworks - Approved 8 March 2013 subject to conditions, including, details of the switchgear and sub-station housings, CCTV cameras including location and any hard surfacing; details of the proposed access; implementation in accordance with the Traffic Management Plan; submission and implementation of the site specific method statement; implementation in accordance with the Ecological Appraisal; submission and implementation of a Habitat Management Plan; details of the proposed lighting; details of landscaping; details of the underground cabling; removal of PD for enclosures; and the removal of the panels and associated works within six months of the cessation of electricity generation, or following a permanent cessation of construction works, as notified by the developer.

2013/00895/FUL - Extension to approved scheme for the installation of a solar PV park – Approved 22 November 2013 subject to conditions, including, implementation only in conjunction with planning permission reference 2012/01285/FUL; further details of switchgear and sub-station housings, CCTV cameras and any hard surfacing; further details of the proposed access to the site; implementation in accordance with the Traffic Management Plan outlined in application 2012/01285/FUL; submission of the site specific method statement referred to in application 2012/01285/FUL; implementation in accordance with the Ecological Appraisal; submission and implementation of a comprehensive Habitat Management Plan (HMP); details of the proposed lighting; details of landscaping; details of underground cabling; removal of PD for enclosures; and the removal of the panels and associated works within six months of the cessation of electricity generation, or following a permanent cessation of construction works, as notified by the developer.

2014/01061/FUL – Siting of a storage container – Approved subject to conditions 14 October 2015.

## CONSULTATIONS

**Natural Resources Wales** – Have considered only issues within their remit in assessing whether an Environmental Impact Assessment (EIA) is required for the proposed development. There may be environmental risks from this proposed development, however these are likely to be managed, and are not deemed significant in the context of the above Regulations. Do not consider that the development is likely to have 'significant environmental effects' that requires a formal EIA.

From the information received there are matters relating to potential contamination, pollution prevention that will need to be considered if any planning application is submitted to the Authority. Also note that the proposal will require an environmental permit from NRW. Therefore recommend the applicant discusses the above with NRW before submitting any planning application.

**Glamorgan Gwent Archaeological Trust** – The impact on the archaeological resource is a material consideration. Information in the Historic Environment Record shows no archaeological sites or findspots within the site. There is a Scheduled Ancient Monument Caerau Camp (Cadw ref: GM018) the boundary of which is within 200m west, and Cadw should be consulted on any application. It is their opinion that there is no significant archaeological resource in the area that would require mitigation and no objection is raised.

**Cardiff Council** – Have expressed concern in respect of the potential impact of increased heavy vehicle movements along Cwrt yr Ala Road. Whether or not an ES is considered necessary they have requested a number of supporting documents/information, including, a Transport Assessment; details of surface water run-off; details of spoil removal from vehicles leaving the site; and details of how neighbouring residential amenity will be protected from traffic noise/vibration and dust.

**The Council's Highway Development team** – The majority of the construction route and access route is via the highway network controlled by Cardiff County Council and the only impact on the Vale's adopted highway is a very short stretch of no through lane from the Cardiff boundary at the bridge. A Transport Assessment will be required in order to determine the impact on our adopted stretch of lane and the access into the site which is also being used for maintenance vehicles for the solar farm. Any formal application will have to provide details of the proposed construction route and management construction plan plus any improvements considered necessary to the access point and lane to cope with the increase in large vehicle movements. This proposed development will result in a high volume of heavy vehicle movements which in turn will result in additional noise and dust or mud depending on the weather. The definition of inert waste in the Landfill Directive states that inert waste is waste that does not undergo any significant physical, chemical or biological transformations. Inert waste will not dissolve, burn or otherwise physically or chemically react, biodegrade or adversely affect other matter with which it comes into contact in a way likely to give rise to environmental pollution or harm human health. The total leachability and pollutant content of the waste and the ecotoxicity of the leachate must be insignificant, and in particular not endanger the quality of surface water and/or groundwater.

**The Council's Ecology team** – Do not disagree with the screening opinion put forward by the applicant. However, there is no evidence to substantiate 2(b) – that the development would not materially affect any natural resources in the locality. The planning application should be accompanied by a full Ecological Appraisal, with details for mitigation/compensation if necessary and details of site enhancement for biodiversity following completion of the works. We advise the applicant to seek further advice from a qualified professional ecologist.

**The Council's Legal, Public Protection and Housing Services Directorate - Environmental Health – Pollution Section** – The site is listed as potentially contaminated land, due in part its former industrial use. Much of the former brickworks has been developed within Cardiff with the A4232 transecting the site. No detailed information is held regarding the site and thereby if further information is required it is advised that Cardiff Council be consulted, along with other agencies as necessary.

In terms of impact upon Vale residents this would be very limited as there is no residential development, within the Vale, close to the proposed site. With regard to impact upon Cardiff residents, and any significant effect on the environment by virtue of the nature, size and location of the development this is a decision for the Local Planning Authority (LPA). However control, mitigation and reduction of any significant or negative effects could be achieved via planning conditions, and the necessary permit that would be required to be granted by Natural Resources Wales (NRW).

Having regard to the limited impact upon Vale residents and the minimal information held by this Section we cannot identify any valid reason why the LPA would request an Environmental Impact Assessment (EIA).

**The Council's Landscape Section** – The scale of the infill proposed will have a significant landscape impact and the success of the restoration, in enhancing the landscape at the edge of the SLA, will be dependent upon the quality of the proposed landscape. Therefore a visual impact assessment and detailed landscaping proposals both for the operational lifetime of the site and for its ultimate restoration would be a necessary requirement whether as part of or outwith of an EIA.

## REPRESENTATIONS

None.

## REPORT

### Issues

In reaching a screening opinion, the Council must have regard to the matters listed in Schedule 3 of the Regulations, which sets out the 'selection criteria' which must be taken into account in determining whether a development is likely to have significant effects on the environment.

It identifies three broad criteria which should be considered: the characteristics of the development (e.g. its size, use of natural resources, quantities of pollution and waste generated); the environmental sensitivity of the location; and the characteristics of the potential impact (e.g. its magnitude and duration).

Welsh Office Circular 11/99 states that in general EIA will be needed for Schedule 2 developments in three main types of case: a) for major developments which are of more than local importance; b) for developments which are proposed for particularly environmentally sensitive or vulnerable locations; and c) for developments with unusually complex and potentially hazardous environmental effects. It also states that the number of cases of such development will be a very small proportion of the total number of Schedule 2 developments.

From a consideration of the proposal in the context of the site, and on the basis of the information provided by the agents, which itself addresses the Schedule 3 criteria, the following conclusions are reached in relation to the Schedule 3 issues.

### Characteristics of Development

Schedule 3 - Selection Criteria for Screening Schedule 2 Development of the regulations advises that the characteristics of development must be considered having regard, in particular, to:

- (a) the size of the development;
- (b) the cumulation with other development;
- (c) the use of natural resources;
- (d) the production of waste;
- (e) pollution and nuisances;
- (f) the risk of accidents, having regard in particular to substances or technologies used.

Annex A to Welsh Office Circular 11/99 lists thresholds indicating the types of cases where an EIA is more likely to be required. Paragraph A36 refers to "Installations for the disposal of non-hazardous waste" and notes that the likelihood of significant effects will generally depend on the scale of development and the nature of the potential impact in terms of discharges, emissions or odour. This states:-

*"For installations (including landfill sites) for the deposit, recovery and/or disposal of household, industrial and/or commercial wastes (as defined by the Controlled Waste Regulations 1992) EIA is more likely to be required where new capacity is created to hold more than 50,000 tonnes per year, or to hold waste on a site of 10 hectares or more. Sites taking smaller quantities of these wastes, sites seeking only to accept inert wastes (demolition rubble etc.) or Civic Amenity sites, are unlikely to require EIA."*

In this case the size of the site is 7.6 ha and the proposed capacity is stated as an estimated rate of 30-40,000 tonnes per annum of inert waste. This is below the 50,000 tonnes per annum and 10 ha site threshold referred to above.

As regards any cumulative impacts the Council is not aware of any other similar developments within the immediate vicinity, and the solar park has been developed so there should be no overlap in relation to traffic movements.



In relation to points (c), (d) and (e) it is noted that as a former brickworks, and being within a derelict mineral site, the land currently has little value in relation to agricultural or other use. NRW noted that there are matters relating to potential contamination and pollution prevention that will need to be considered in any application, however, they do not consider that the development is likely to have 'significant environmental effects' that would require a formal EIA. Similarly, the Council's Environmental Health section has indicated that they cannot identify any valid reason why the authority should request an EIA.

As regards the effect on the landscape, the Council's Landscape section has indicated that in their opinion the scale of the infill proposed will have a significant landscape impact. However, it is considered that this is in relation to a very localised impact and it does not follow that the development as a whole has the potential for significant wider impacts. Indeed the Landscape section do recognise that the proposal could enhance the landscape, noting that the success of the restoration will be dependent upon the quality of the proposed landscape. They recommend that a visual impact assessment and detailed landscaping proposals both for the operational lifetime of the site and for its ultimate restoration would be a necessary requirement.

On the highway issues it is noted that the greater impacts of the proposal in this respect will affect the neighbouring authority Cardiff Council. They have highlighted the potential pollution and nuisance issues related to the development, and expressed concern in respect of the possible effect of increased heavy vehicle movements along Cwrt yr Ala Road. They have not offered an opinion as to whether an ES is considered necessary. In assessing the significance of such impacts it is recognised that the movements will be time limited to a period of between 5-6 years, and are only likely to affect those residents on the specific haulage route. On that basis it is not considered that the potential highway impact would be significant, however, full assessments and details will be required in any application. Cardiff Council have requested a number of supporting documents/information be provided, including, a Transport Assessment; details of surface water run-off; details of spoil removal from vehicles leaving the site; and details of how neighbouring residential amenity will be protected from traffic noise/vibration and dust.

Finally, on the issue of risk of accidents, it is considered that there should be no greater risk than any other such waste developments of a similar size and nature.

Thus it is considered that the characteristics of the development do not indicate that there is the potential for significant impacts as a result of the proposed development.

#### Location of development

It is necessary to assess the area for its environmental sensitivity, and whether any part of the development would be carried out in a sensitive area. Paragraph 36 of WO Circular 11/99 provides a definition of 'sensitive areas' and includes:- Sites of Special Scientific Interest (SSSI); National Parks; Areas of Outstanding Natural Beauty (AONB); World Heritage Sites; Scheduled Ancient Monuments; and Internationally designated sites.

Notwithstanding this paragraph 39 of the Circular makes it clear that there can be other circumstances where a site can be considered to be environmentally sensitive. This states:-

*“In certain cases other statutory and non-statutory designations which are not included within the definition of ‘sensitive areas’, but which are nonetheless environmentally sensitive, may also be relevant in determining whether EIA is required. Where relevant Local Biodiversity Action Plans will be of assistance in determining the sensitivity of a location. Urban locations may also be considered sensitive as a result of their heavier concentrations of population.”*

Thus when considering the environmental sensitivity of geographical areas likely to be affected by development, regard must be had, in particular, to –

- (a) the existing land use;
- (b) the relative abundance, quality and regenerative capacity of natural resources in the area;
- (c) the absorption capacity of the natural environment paying particular attention to the following areas -
  - (i) wetlands;
  - (ii) coastal zones;
  - (iii) mountain and forest areas;
  - (iv) nature reserves and parks;
  - (v) areas classified or protected under Member States’ legislation; areas designated by Member States pursuant to Council Directive 79/409/EEC on the conservation of wild birds and Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora;
  - (vi) areas in which the environmental quality standards laid down in Community legislation have already been exceeded;
  - (vii) densely populated areas;
  - (viii) landscapes of historical, cultural or archaeological significance.

The submitted documentation makes reference to a number of designations and constraints on or near the site, including the Cwrt yr Ala Basin SLA, and the Leckwith Woods site of importance for Nature Conservation (SINC). There are other constraints, including the Scheduled Ancient Monument referenced by the Council’s archaeological advisors, Glamorgan Gwent Archaeological Trust, i.e. the Caerau Wood hill fort which is located to the north of the site within the neighbouring Cardiff County Council local authority area. Despite this GGAT has advised that there is no significant archaeological resource in the area that would require mitigation.

The Council's Ecology team have advised that they do not disagree with the screening opinion put forward by the applicant. However, there is no evidence to substantiate 2(b) – that the development would not materially affect any natural resources in the locality. Whilst it is accepted that there is likely to be a material affect it does not follow that this will be significant. In fact in relation to the issue of the abundance, quality and regenerative capacity of natural resources, it is recognised that the proposal is intended to restore the land which could also provide for ecological mitigation/compensation and enhancement for biodiversity following completion of the works.

As regards criterion (c) (vii) densely populated areas, both the Council's Highways and Environmental Health recognise that the majority of the impacts are likely to be felt by the residents of the neighbouring Cardiff Council authority rather than the Vale with the area itself being sparsely populated. However, as highlighted above, it is likely that the impact will be restricted to those residents along the route of the proposed traffic movements.

Thus it is considered that the location of the site does not fall within the definition of a 'sensitive area' within the Circular. The site is not a particularly environmentally sensitive or vulnerable one, where the proposal has the potential to have a significant environmental impact, nevertheless, it does have some importance within the local context being a Special Landscape Area. It is noted that the supporting documentation does outline a number of technical assessments that will accompany any formal application, including assessments of landscape, noise, dust, traffic and ecology.

#### Characteristics of the potential impact

An assessment of the potential significant effects of development must have particular regard to:

- (a) the extent of the impact (geographical area and size of the affected population);
- (b) the transfrontier nature of the impact;
- (c) the magnitude and complexity of the impact;
- (d) the probability of the impact;
- (e) the duration, frequency and reversibility of the impact.

In considering the potential impacts, the Council would agree with the supporting statement that the potential impacts are not significant in respect of their extent, magnitude, complexity and duration. The scale of the proposed development is likely to be of no more than local importance. It is not envisaged that there would be any transfrontier impacts. It is also accepted that the magnitude and complexity of the development is likely to be limited, as will the probability of the impact. As regards the duration, frequency and reversibility, the proposal is envisaged to cover a period of only 5-6 years during which time an average of 20 vehicle movements a day is anticipated. As the proposal entails the restoration of an “unrestored brick pit at the periphery of the Special Landscape Area”, it is anticipated that the scheme should serve to enhance the existing environment.

As such the scheme is not considered to have the potential for significant environmental effects, and, in this instance an Environmental Impact Assessment is not a requirement.

### CONCLUSION

Welsh Office Circular 11/99 states that EIA will usually only be needed for Schedule 2 developments in three main types of case: a) for major developments which are of more than local importance; b) for developments which are proposed for particularly environmentally sensitive or vulnerable locations; and c) for developments with unusually complex and potentially hazardous environmental effects. It also states at A36-“Installations for the disposal of non-hazardous waste” that sites seeking only to accept inert wastes, and quantities smaller than 50,000 tonnes per year, or holding waste on a site less than 10 ha, are unlikely to require EIA.

In this respect, and taking into account the above circular advice and each of the stated criteria in Schedule 3, it is concluded from the information submitted that the project is not a major development of more than local importance, that is proposed for a particularly environmentally sensitive or vulnerable location, nor does it have unusually complex and potentially hazardous environmental effects. As such, whilst information regarding certain environmental issues will undoubtedly be required for any planning application, it is considered that there is no requirement for a formal Environmental Impact Assessment to be submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (as amended).

### RECOMMENDATION – OFFICER DELEGATED

An Environmental Impact Assessment is not required for the following reason(s):

1. Having regard to the key issues identified in Schedule 3 of the Regulations and WO Circular 11/99, the Local Planning Authority is of the view that the characteristics, location and any potential impact of the development as outlined in the supporting documentation is not likely to be significant upon the environment for the reasons identified in the screening opinion attached.

Accordingly, there is not considered to be a requirement for a formal Environmental Impact Assessment to be submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (as amended).

**NOTE:**

- 1. Please note that the Council's Screening Opinion comprises this decision letter and the accompanying Screening Report.**

**Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.**

**In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).**

**The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.**

**Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.**