



CITY AND COUNTY OF SWANSEA
DINAS A SIR ABERTAWE

David Morgan
Natural Resources Wales
Maes Newydd
Llandarcy
Neath Port Talbot
SA10 6JQ

Please ask for:
Gofynnwch am:
Direct Line:
Llinell Uniongyrchol:

E-Mail:
E-Bost:

Our Ref:
Ein Cyf:

Your Ref:
Eich Cyf:

Date:
Dyddiad:

Mr Jonathan Hicks

01792 636861

Jonathan.hicks@swansea.gov.uk

JH/PS/8038/B Pt.1

15th October 2015

Dear David

Re:- Lorey Metals Recycling Site(s), Ferryboat Close, Enterprise Park, Swansea
UPRN – 0014400

Further to our recent telephone conversation regarding the above scrapyard site I am looking to seek clarification regarding the proposed surrender/transfer of the operating licence vis-à-vis Site Contamination which has occurred due to the operation of this site since the Enterprise Park was originally created.

As discussed the Council has been in preliminary negotiations with Mrs Debbie Atwell/Mrs Annette Lorey with a view to the Council acquiring both the sites (the original Lorey Metal Scrapyard site and the adjoining hard surfaced site, which was originally a concrete batching plant) as a new Council Depot to service the Council's vehicle fleet – particularly in terms of parking the refuse lorries, etc., as this is conveniently located for the adjacent Bailing Plan and, therefore, this would generate savings both in terms of time and cost by reducing vehicle transit numbers and environmental benefits by reducing vehicle emissions.

As part of its considerations the Council has undertaken preliminary site investigations, and these have revealed the presence of a number of contaminants at the site. It appears that the metallic leachates which were identified are generic to the area and as a result of the historic foundry slags which comprise most of the underlying strata in the Enterprise Park as these were distributed when the ground was profiled by the then Welsh Development Agency when the Park was originally created. Consequently, it is not considered reasonable or practical to attempt to remediate these metallic elements on this site in isolation, as there would then be contamination leaching from adjoining

DIRECTORATE OF PLACE
CYFARWYDDIAETH LLEOEDD

Strategic Estates Section, Corporate Building & Property Services,
Civic Centre, Oystermouth Road, Swansea, SA1 3SN
Is-Adran Ystadau Strategol, Gwasanaethau Adeiladau ac Eiddo Corfforaethol,
Canolfan Ddinesig, Heol Ystumllwynarth, Abertawe, SA1 3SN

☎ (01792) 636000 ☎ (01792) 637278

🌐 www.swansea.gov.uk

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ground and as a result I believe that we have to accept the presence of these elements as they are inherent in the whole area and, therefore, these form the "base line" for this location.

However, the report also identified the presence of hydrocarbon contamination in the soil of the original scrapyard site, it is probable that this occurred because the site is unsurfaced, lacking any form of permeable barrier, and vehicles were originally drained of fuels, oil and other fluids on site with these presumably being allowed to soak into the underlying soil. I enclose a disc with a copy of the report received by the Council; I realise this is not exhaustive and represents only a "snapshot" of the conditions in limited locations, however, hopefully taken together with any records which NRW may possess, it should allow an assessment to be made.

My principle concern is that the Council should not be held liable for any remediation which may be required to the site, which has been caused by the tenant/operator – after all the regulation of such sites is an NRW function and, therefore, any contamination problems should have been identified historically and the tenant required to amend operating procedures which were unsatisfactory or failed to comply with the existing legislation. Failure to ensure compliance was, therefore, not a Council responsibility and so the Council does not consider it should be held liable for any future clean-up of the land which resulted from lack of correct regulation by the NRW (and the Environment Agency as its predecessor) as the relevant regulatory authority. Also included on the disc is a report on an adjacent site (No.8A) as this includes information on the depth of made ground in this location and the level of the water table – I hope this will be of assistance to you as additional information.

Before the Council can take a decision whether to acquire these sites we require a definitive answer from NRW as to whether remediation of the site is required, or whether current levels are acceptable if the present use of the site as a scrapyard ceases and the site were transferred to use as a Council vehicle depot – obviously this would include covering the contaminated soils with a suitable depth of clean, crushed, inert material, which would be rolled and compacted to provide a parking area for the refuse lorry fleet. Subject to this confirmation I believe the way forward covers the following scenarios:-

- NRW confirms that there is no requirement for site remediation as long as the existing scrapyard use ceases, therefore, the Council could acquire the sites for its proposed Depot use and would cover the contaminated soil with clean, crushed material which is compacted and rolled prior to use, as identified above.
- That remediation of the site is necessary – in which case the Council is of the firm opinion that NRW should pursue the operator as the polluter and that no liability should attach to the Council as NRW is responsible for regulating this use and the Council would defend any claim against it on the grounds that NRW (or the EA as its predecessor) had contributed to the pollution by failing in its capacity as the regulatory authority.

- If the Council is unable to agree a satisfactory surrender with the tenant and the tenant seeks to assign the property to another operator as a scrapyard, then NRW will (if remediation is judged necessary) require this to be carried out as a condition of the licence surrender/transfer and in addition require that the site is brought up to the correct specification by means of being provided with a hard/impermeable surface and correct drainage to interceptors etc. as a condition of permitting any surrender/transfer of the licence.

Once you have had an opportunity to examine the information provided, together with any other information you may hold in your records, then hopefully NRW will be satisfied that if the source of pollution is removed (by way of the scrapyard ceasing operation) and the site transferred to a Council Depot with the exposed contaminated soil covered with a suitable layer of compacted clean, crushed, inert material, then no further remediation will be necessary. If so, please could you provide written confirmation of this; or, if you consider that remediation is required then again please respond accordingly in writing, together with confirmation that you will seek redress from the operator and that no liability attaches to the Council for the reasons set out above.

The tenant/operator is currently chasing me for a decision as scrap values are currently so low it appears the business is trading at a loss and she is very keen to exit the business and sell her leases on. Consequently, I require the information as soon as possible if we are to be able to acquire the leases as part of the commercial deal, and I believe it is in both the interest of the Council and NRW that the Council acquire these leases and use them for its own purposes as I consider the proposed use would have a greatly reduced environmental impact over any alternative uses to which the site may otherwise be put.

I look forward to receiving your reply once you have had an opportunity to study this information and consider the matter further, and would greatly appreciate your assistance in helping me progress this case as quickly as possible.

Yours sincerely



Jonathan Hicks MRICS
For and on behalf of
Head of Corporate Building & Property Services

Enc.