Ref: **142223/FO/2025**
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BY EMAIL ONLY: Planning@manchester.gov.uk

Dear Planning Services

Land bounded by Longford Park; St John's RC Primary School and Properties On Peveril Crescent/Copley Road; Properties on Rye Bank Road/Park Square/ Great Stone Road; And Longford Road/Ryebank Road 142223/FO/2025

We write on behalf of our client Friends of Ryebank Fields (our **"Client"**).

This letter sets out our Client's objection to planning application **142223/FO/2025** (the **"Application"**) for the *"Erection of a residential development comprising 120 dwellings (including a mix of housing types and tenures) together with open spaces, landscaping, sustainable drainage features, cycleways and pedestrian footways, vehicular accesses and highways, parking provision and other associated works"* (the **"Proposed Development"**) at Land bounded by Longford Park; St John's RC Primary School and Properties On Peveril Crescent/Copley Road; Properties on Rye Bank Road/Park Square/ Great Stone Road; And Longford Road/Ryebank Road (the **"Site"**).

This letter sets out our Client's objection in respect of the elevated risk of exposure to contaminants posed by the Proposed Development only. It is our understanding that our Client has submitted additional objections in addition to the ones identified in this letter.

1. Background

For ease of reference, we provide a brief history of the Site:

1930s	Brickworks cease production and clay pits are backfilled.
1966/7	The Site is purchased by Manchester City Council (the **"Council"**)
1970s	Remediation works undertaken as part of the Operation Eyesore programme. Land is thereafter used for recreational sporting activities.
1988	Manchester Polytechnic acquire ownership of the land under Education Reform Act 1988
1992	Manchester Polytechnic becomes Manchester Metropolitan University
1996	Application for housing development is refused (this decision upheld on appeal in 1997). Manchester Metropolitan University ceases use of the Site for sporting activities citing waterlogging and brickwork
1997	Rewilding of the Site (all mowing ceases)
2020/2021	Asbestos is detected in ground samples at the Site following core sample excavations left on surface.
Spring 2025	The Application is submitted by Manchester Metropolitan University and Step Places, Southway Housing Trust (the **"Applicant"**)

The Application is accompanied by an Environmental Statement **("ES")** as a development likely to have significant effects on the Environment.

The Phase I Geoenvironmental Site Assessment dated March 2020 and prepared by e3p **("Phase I GSA")** submitted as part of the Application identified a moderate risk to human health. This is owing to the likelihood of there being significant depths of made ground which could be impacted with TPHs, heavy metals, PAHs and asbestos. The Phase I GSA suggested that this could be mitigated through the placement of a 600mm clean cover system to all gardens and landscaped areas and that should any volatile determinants be identified these are likely to require removal during remediation and enabling works to not pose a risk to future end users. Further, the report identified the risk of Made Ground as a source of hazardous gases posing a low-level risk to construction workers and residential end users.

The Phase II Geoenvironmental Site Assessment dated February 2025 and prepared by e3p **("Phase II GSA")** determined that the depth of made ground could not be established within the majority of locations assessed on the Site due to substantial depths of made ground and obstructions. In the made ground identified, there were rare to frequent fragments of brick and concrete in the reworked topsoil and frequent fragments of brick, concrete and other materials in the underlying ground. Strong hydrocarbon odours were also identified throughout the Site. Further, the Phase II GSA observed risks to human health from elevated concentrations of heavy metals, non-volatile PAHs, naphthalene, TPH C12-35 and asbestos fibres, the latter which would require hand picking. The Phase II GSA recommends further investigation of inaccessible areas and delineation of clay pits and the production of an Asbestos in Soil Construction Phase Risk Assessment and Management Plan.

The Flood Risk Assessment identified a medium risk from fluvial flooding, very low-low risk of pluvial flooding and a medium risk of groundwater flooding.

The Environment Agency's response **("EA Response")** to the Application dated 31 March 2025 under reference number SO/2025/124804/01, reaffirmed the likely unacceptable risk to controlled water receptors as a result of adverse concentrations of contamination to the ground. The EA Response also highlighted the composition of waste materials which would suggest the likelihood of persistent organic pollutants being present which have not been included in any sampling undertaken and recommended that additional ground investigation (including a more comprehensive sampling programme) was undertaken. It was observed that a non-aqueous phase liquid had been identified at various locations indicative of contamination, in direct contradiction to the risk assessment which suggested no remediation was required.

The Environmental Health Officer **("EHO")** requested the submission of a preliminary risk assessment for the un-investigated woodland area to be maintained as public open space due to these areas being known to contain visible asbestos-containing materials **("ACMs")**. In response to the EHO's request, the Applicant provided a letter from E3P based on their own modelling assumptions, "in lieu of direct sampling data" which stated that under existing Site conditions, there is a high risk to Site users due to the presence of ACMs on the ground surface and the potential for disturbance through typical public use (e.g. walking, informal play).

This is in contrast with the current position of the EHO based on reports by Environmental Essentials who carry out regular inspections, removals and sampling and observe the risk to be low/ambient levels.

The remediation proposals suggest that high risk would convert to low risk should the following remediation measures be implemented:

- Manual removal (hand-picking) of visible ACMs from the surface (these measures are already in
- Targeted surface soil sampling to confirm removal effectiveness
- Placement of a 100mm clean cover system within accessible areas, including root protection zones where practical and feasible.

2. Relevant Planning Policy & Statutory Framework

Applications for planning permission can take many forms, but they must comply with legislation and policy, in order to be properly considered, determined and managed thereafter by local planning authorities. The law requires local planning authorities to determine applications in line with the law and relevant policy, which includes local and national policy.

We set out below relevant extracts which will illustrate the points of concern, mentioned later in this letter, for ease of reference.

National Planning Policy Framework (the "NPPF")

Paragraph 57:

"Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early 15 is beneficial to all parties involved in the process and can speed up decision-making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification"

Paragraph 196:

"Planning policies and decisions should ensure that:

a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);

b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and

c) adequate site investigation information, prepared by a competent person, is available to inform these assessments."

Paragraph 198:

"Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;

b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and

c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation."

The Places for Everyone Joint Development Plan 2022-2039 (2024) (the "Development Plan)

Policy JP-S1 Sustainable Development

"To help tackle climate change, development should aim to maximise its economic, social and environmental benefits simultaneously, minimise its adverse impacts, utilise sustainable construction techniques and actively seek opportunities to secure net gains across each of the different objectives. In preparing plans, authorities should make as much use as possible of suitable previously-developed (brownfield) land and vacant buildings to meet development needs. In bringing forward previously developed sites for development, particular attention will be paid to tackling land contamination and stability issues, ensuring that appropriate mitigation and remediation is implemented to enable sites to be brought back into use effectively."

Policy JP- S4: Flood Risk and the Water Environment

"An integrated catchment-based approach will be taken to protect the quantity and quality of water bodies with reference to the Northwest River Basin Management Plan and managing flood risk, by:

1. Returning rivers to a more natural state, where practicable;

2. Working with natural processes and adopting a natural flood management approach to slow the speed of water drainage and intercept water pollutants;

3. *Locating and designing development so as to minimise the impacts of current and future flood risk, including retrofitting or relocating existing developments, infrastructure and places to increase resilience to flooding;*

4. *Expecting developments to manage surface water run-off through sustainable drainage systems and as close to source as possible. Development should achieve greenfield run-off rates unless it is demonstrated to be impracticable. District local plans should consider setting more detailed surface water drainage policies to reflect local circumstances, including alternative surface water discharge rates, such as in areas with critical drainage issues;*

5. *Ensuring that sustainable drainage systems:*

    i. *Are designed to provide multifunctional benefits wherever possible, including for water quality, nature conservation and recreation;*
    ii. *Avoid adverse impacts on water quality and any possibility of discharging hazardous substances to ground;*
    iii. *Are delivered in a holistic and integrated manner, including on larger sites split into different phases;*
    iv. *and Are managed and maintained appropriately to ensure their proper functioning over the lifetime of the development.*

6. *Securing the remediation of contaminated land and the careful design of developments to minimise the potential for urban diffuse pollution to affect the water environment; and*

7. *As a minimum, residential development should meet the mandatory water efficiency standard of 125 litres/person/day as set out in Building Regulations. District local plans may and should consider setting a tighter water efficiency standard of 110 litres/person/day where there is a clear local need with reference to national guidance on housing optional technical standards."*

Manchester's Local Development Framework Core Strategy Document 2012 (the "Core Strategy")

Policy E18: Contaminated Land and Ground Stability

"The Council will give priority for the remediation of contaminated land to strategic locations as identified within this document. Any proposal for development of contaminated land must be accompanied by a health risk assessment All new development within former mining areas shall undertake an assessment of any associated risk to the proposed development and, if necessary, incorporate appropriate mitigation measures to address them."

Manchester City Council Planning & Contaminated Land, Technical Guidance (February 2021) (the "Technical Guidance")

6.1 Depth of cover systems and capping layers

"Where used as a capping layer of cover system, fill materials should be installed at prescribed depths according to their soil type and the role they play within the cover system. As cover systems are almost always site-specific, the various depth of fill can vary greatly depending on how complex or engineered the cover system is to be, but there are a few minimum standards to be observed, which are described below. Typical cover system design requires a capillary break layer at its base, which is then overlain by various depths/types of fill material. These individual layers working in unison form the cover system or capping layer. The minimum acceptable total depth for fill materials (including the break layer) within private garden areas should be 600 mm. This figure is recommended and has been adopted for the following reasons

i. Root systems for shrubs are typically up to 600 mm;
ii. Excavations are unlikely to be deeper than 600 mm in typical gardening activities;
iii. Bioturbation (soil-mixing by biological organisms) is typically limited to the top 600 mm of the soil profile;
iv. Excavations by children or pets are unlikely to exceed 600 mm.

The minimum acceptable total depth for fill materials (including the break layer) within areas of soft-landscaping, common areas or public open spaces is 450 mm. This relaxation of cover depth is designed to reflect the reduced risk afforded by diminished exposure of human health receptors to potentially contaminated soils within these public areas via direct contact (dermal, ingestion, inhalation)."

3. Grounds of Objection

3.1. Failure by the Applicant to undertake adequate site investigation to assess contamination risks and impacts on controlled waters contrary to planning policy

The Application fails to comply with the requirements of paragraph 196(c) of the NPPF and Policy E18 of the Core Strategy which require the provision of adequate and robust site investigation information to assess contamination risks. There is a clear overreliance from the Applicant on modelling and "worst-case scenario" assumptions as a substitute for site sampling. Given the widely acknowledged present of harmful contaminants on site, this is not appropriate and likely results in an underrepresentation of the contamination at the Site.

The EA Response expressly identified the likely presence of Persistent Organic Pollutants ("**POPs**") and recommended that a more comprehensive sampling programme be undertaken. No such targeted sampling for POPs, PFAS or other contaminants commonly linked with the profile of waste materials identified on site has been undertaken. The importance of this is arguably amplified by the uncertainty as to the nature and extent of made ground. Given the EA's concern over the risk to controlled water receptors, there is no specific assessment of the potential for migration of contaminants through ground water and flood related pathways. This runs contrary to Policy JP-S4, which requires development to protect the water environment to avoid adverse impacts on water quality and to prevent the mobilisation or discharge of hazardous substances to ground and controlled waters.

Owing to the lack of proper sampling, it is not possible to determine the likely impacts on controlled waters and that effective mitigation can be secured. This is exemplified by the EA's detection of the non-aqueous phase liquid throughout the Site (which is indicative of contamination) which the Applicant had failed to pick up in its risk assessment. The Applicant's ES addendum dated May 2026 suggests that additional investigation will be needed to "fully characterise the site". However, it is not acceptable in planning policy terms for development to be approved without a robust understanding of the contamination risks and whether the development will in fact elevate these. This is of particular concern in cases such as this where risk to human health is a factor. Throughout this application, there is a clear overreliance by the Applicant on the potential for use of planning conditions to remediate serious concerns. In this instance, the Council cannot impose enforceable and precise concerns, if there insufficient understanding of the risks posed.

Further the Phase II GSA and EHO response both stressed the need to further investigate areas of the Site which were inaccessible when initial site investigation took place. The Applicant appears content to rely on carrying out such investigation at the post permission stage. This is at odds with the requirement of NPFF 196 (a) which necessitates that the suitability of the site for its proposed end use be established at the decision stage and Policy JP-S1 which encourages development that tackles contamination effectively.

3.2. Failure by the Applicant to ensure adequate remediation and mitigation contrary to planning policy

The Applicant has failed to demonstrate sufficient remediation and mitigation measures contrary to the NPPF which factors remediation into suitability of the Site for its proposed and use states that a site should not be capable of being determined as contaminated land. Further, Policy E18 requires that risks to human health are appropriately mitigated and Policy JP-S1 requires that contamination is effectively addressed.

The Applicant's proposed remediation strategy relies primarily on the use of a clean cover system within all landscaping areas, hardscaping to prevent direct contact with contaminated soil and the removal of contaminated materials during remediation.

In respect of the cover system, the Phase I GSA suggested implementation of a 600mm clean cover system, this is in line with the *minimum* requirement of the Council's Technical Guidance. However, it is unclear exactly what depth of cover the Applicant proposes. The ES addendum merely refers to a clean cover system within all landscaping areas but does not specify the depth, as neither does the Contaminated Land Remediation Strategy. The response letter from E3P refers to a 100mm cover system being sufficient to present a low risk to future users within accessible areas, significantly lower than the minimum 600mm which is recommended by the Council guidance and the Phase I GSA.

Further, the proposed remediation measures do not adequately address the uncertainty over the extent and nature of the made ground present at the Site. The Phase II GSA acknowledges that large areas of the Site could not be fully investigated and that therefore the depth and composition of made ground remains unknown in many locations. This is important in light of the Site's flood risk and groundwater conditions which create clear pathways through which contamination could move. The Application does not show how the proposed remediation would prevent contaminants within the made ground from being disturbed, moved or washed through the ground during construction or flood events. In those circumstances, the Applicant has not demonstrated that the proposed measures would prevent harm to the water environment, as required by Policy JP-S4 nor that risks to human health have been properly assessed contrary to Policy E18.

Moreover, the Phase II GSA records that the made ground and reworked topsoil contain "rare to frequent" fragments of brick, concrete and other materials. In areas where these fragments are frequent, it is difficult to see how the manual removal of contaminated materials through handpicking will be sufficient to remove all contaminated materials. There is also no consideration given as to how the Applicant proposes to verify that such materials have indeed been removed.

Lastly, the Application does not adequately address the unique contamination risks in this case arising from the interaction between made ground and burrowing animals, notably badgers. That such activity takes place is consistent with the Phase II GSA's identification of made ground containing asbestos and other

contaminated materials within the topsoil. In those circumstances, burrowing activity creates a pathway by which contamination within the made ground is exposed at the surface and dispersed across the Site. The proposed remediation strategy is therefore not tailored to account for this contrary to Policy E18 which requires the identification and control of such pathways posing a risk to human health.

4. Conclusion

The proposed development would introduce a materially greater risk than the Site's current use as green open space by requiring substantial ground disturbance. Construction activities would disturb made ground and create pathways for the mobilisation and dispersal of contaminants which are currently largely contained. By contrast, the existing use leaves subsurface conditions undisturbed and does not give rise to the same risk. In circumstances where the extent of contamination remains insufficiently characterised, and the proposed remediation measures are inadequately defined and justified, the Applicant has failed to demonstrate that these risks can be properly understood, managed or mitigated. The development would therefore result in a materially increased risk compared to the status quo, which provides a clear and legitimate planning basis for refusal.

Accordingly, for reasons detailed above, our Client considers that the Application should be refused on the following basis:

1) Failure by the Applicant to undertake adequate site investigation to assess contamination risks and impacts on controlled waters contrary to planning policies NPPF paragraphs 196, E18, JP-S1 and JP-S4

2) Failure by the Applicant to ensure adequate remediation and mitigation contrary to planning policies NPPF paragraphs 196, E18, JP-S1 and JP-S4

For these reasons, we urge the Council to refuse permission for this Application.

Yours faithfully

STEFANO D'AMBROSIO NUNEZ
ASSOCIATE
For and on behalf of IRWIN MITCHELL LLP