

**LIABILITY SCREENING REPORT**

# Regulatory Enquiry



Property Reviewed

**Western Garage  
Lossenham Lane  
Newenden  
Kent  
TN25 1PX**

Review Prepared For

**Solicitors**

Your Reference

**ABC/123**

Date

**1<sup>st</sup> November 2010**

Renaissance Regeneration Reference

**CI01101 - Western Garage**

**Renaissance Regeneration Ltd**

**T 01284 765563  
F 01284 765581  
E [info@renreg.co.uk](mailto:info@renreg.co.uk)**

## **Instruction**

Renaissance Regeneration Ltd. was instructed by Solicitors on 1<sup>st</sup> November 2010 to investigate the environmental status of the above-mentioned property. Due to the former filling station use of the property and the intention for redevelopment, it was recommended by Renaissance that a regulatory enquiry would prove more beneficial and cost effective than a standard historical desktop search which would have doubtlessly recommend this course of action anyway. The Environmental Health and Planning departments of the Hastings District Council, and the archive of the East Sussex Fire service petroleum records were consulted between 1<sup>st</sup> and 4<sup>th</sup> November 2010. The Environment Agency was consulted between 1<sup>st</sup> March and 2<sup>nd</sup> November 2010. The results of the research are presented below.

As a point of interest, it may benefit those involved with the sale of the site to know that the property was known variously as Western Garage and Northern Service Centre. Another former filling station known as City Garage was located on the opposite side of the junction, but these are two separate establishments.

## **Planning Department**

On 4<sup>th</sup> November a conversation with the Duty Planning officer for the district revealed the following.

- An application for redevelopment of the former petrol station was approved in August 2006 under number 06/05275.
- The application had 20 conditions imposed upon it. Several of these were of an environmental nature requiring various degrees of reporting and investigation to be carried out prior to development. Although they appeared to be of standard wording, the conditions seem to be rather more onerous and thorough than those usually encountered. I offered that this might be because of the former petrol storage use and this was confirmed.
- The application is recent and the conditions are still outstanding. This is to be expected at this stage of the development process.
- It is not known whether the development of the site has commenced or at what stage is the ground preparation.

## **Contaminated Land Officer**

On 1<sup>st</sup> November a conversation with the Contaminated Land officer for the district, Ms. Jane Smith, revealed the following.

- Rather unusually, this authority has decided that the processing of a site through planning does not necessarily preclude it from scrutiny under the EPA legislative process.
- The prioritisation of sites for the council's jurisdiction was underway but was incomplete. Information about properties on the 'prioritisation list' is not made available, as it is the view of the authority that this information could create negative publicity for the site pre-emptively.

- Small sites of this nature will not realistically be considered for investigation for between 10 to 15 years.
- The officer examined the historic maps from 1850 for site and between us we concluded that, apart from the recent use for petrol service (commencing C.1960), there was little of alarm observed.
- Some initial contact between the department and the developer had commenced, but it is at an early stage. A recommendation for full site investigation and gas monitoring has been proposed by the department.

### **Petroleum Officer**

On 3<sup>rd</sup> November a conversation with the Petroleum officer for the district and subsequently Mr. John Collins of the archive section of the Hastings division revealed the following.

- There are no records on the system for Western Garage. The only records for the area are for City garage, a separate concern opposite the target property.
- Mr. Collins said that he is aware of the site and that Western garage has not traded fuel for sometime, having more recently been a car sales operation.
- He offered to visit the site on behalf of the purchaser if this is required. This visit would cost £34.10 + Vat and might be able to identify the location of the tanks and highlight any related issues. He can be contacted on 01422 386830.

### **Environment Agency**

On 00<sup>th</sup> March a conversation with the Agency, the subsequent written enquiry and following conversation on 0<sup>st</sup> April, yielded the following information about the Western Garage and surrounding area:

- There have been no known pollution incidents at Western Garage or in the surrounding area.
- The garage is situated over a non-aquifer and there are no licensed underground water abstraction wells in the area.
- The Agency would not expect to be involved with the redevelopment of the garage, but would expect the local authority to take total control. The lack of water resources beneath the garage or in the immediate neighbourhood puts the garage outside of the Agency's remit.

### **Conclusions**

There is nothing unusual about this redevelopment in most respects. The presence of conditions on the planning approval is to be anticipated and the facts that the fuel tanks are still in-situ provide useful extra information. The fact that this current planning process will not insulate the property from potential scrutiny at a later stage is unusual but probably not too problematic. This is because there is nothing obviously noteworthy on the historic data and the remediation during the current

development should expunge any on-site problems. This is coupled with an admission that any scrutiny is many years off.

What is perhaps noteworthy is the attitude and structure of the contaminated land department: a specialist contaminated land division *within* a council's planning department is highly unusual. Furthermore, the conditions on the planning application are more numerous and more demanding in content than usual, and the officer I spoke to has already advised for comprehensive Site Investigation. There would appear to be an intention to take their responsibilities very seriously and leave no room for doubt.

## Recommendations

We are informed that the site is to be purchased 'as is' and that the purchaser is undertaking to clear the site and remediate the ground at their expense, post purchase. No doubt the arrangements for transfer of any liability associated with historic pollution will be imposed through the contract of sale.

Older petrol service facilities are renowned for their potential to cause at least some pollution to the surrounding soils. The integrity of the tanks is always in doubt where wet stock management data and integrity test data is not available. In this case this data is unlikely to be available due to the age of the facility.

A decommissioning contract for the site will include the removal of the underground fuel tanks; probably at fixed cost once the size and location of the tanks is identified. There will also be a testing and remediation element to the quote to handle any contamination affecting the area around the tanks. This will not be fixed but dependent on the results of soil test and scope of work thought necessary.

Basically, there is an element of the unknown about the site and the purchaser should be aware that discharging some of the conditions may require some significant expenditure of time and money. Naturally, without knowing the results of the site investigations (which have presumably yet to be undertaken), it is impossible to put a figure on it; but some renegotiation may be appropriate unless a sensible margin has already been adopted to allow for these factors during the initial negotiations. However, on the balance of probability, the presence of a small amount of contamination would probably add a few to several thousands of pounds to the demolition bill. More widespread contamination or off-site migration would tend to add tens of thousands of pounds to the redevelopment costs, possibly even rising into the hundreds of thousands.

Demolition and decommissioning contractors will vary in the quality and the extent of the work they offer. The purchaser is advised to put the onus for discharge on conditions on the decommissioning company from the outset, if this is available. It would be short sighted to take the lowest quote only to find oneself having to negotiate with the authority independently after the event. It is advisable to communicate the intentions to the authority prior to starting work.

A risk averse purchaser would only be comfortable negotiating a final sale price after the results of a soil sampling investigation (Phase II) were made available to quantify any contamination issues. If pollution has migrated beyond the site boundary, this may further complicate the process.

## Regulator Overview

This section gives an overview of the nature and remit of the regulatory bodies which may have been consulted in the preparation of this report. Not all regulators are consulted for every property as some are only appropriate for certain trade sectors. Also, a conclusion can often be determined from fewer enquiries due to the structure of certain Authorities and their internal record keeping processes. Occasionally, recourse will have to be made to the County Engineer or Minerals and Waste departments.

**Contaminated Land Officer:** Often a dedicated post within the Environmental Health department of the local authority, the Contaminated Land Officer (CLO) is usually a geo-environmental specialist. The CLO is charged with identifying, prioritising and inspecting potentially polluted properties (under Part IIA of the Environmental Protection Act 1990). Should the CLO find significant contamination at a property, the authority is likely to determine it as officially Contaminated.

Each authority has a different strategy about prioritising, inspecting and determining contaminated land, with some relying on the planning process to identify and deal with high risk sites. Renaissance personnel have good relationships with many CLO's and will usually pursue telephone enquiries as a first option. This usually achieves rapid and detailed information compared to written requests, as most authorities are extremely cautious about their written correspondence.

The CLO also advises the Planning department about the need for environmental investigation and remediation for proposed development projects.

**Planning Department:** Hold all planning records and are responsible for imposing environmental investigation and remediation (removal or reduction of pollutants) requirements for proposed developments. These requirements can also be imposed for extensions and alterations to existing structures. Enquiries to the Planning Department should reveal the planning history of a property, including environmental reserved matters or conditions. There is some variation between authorities, but it is often possible, especially through verbal enquiries, to gather whether these planning conditions have been discharged or remain outstanding.

**Building Control Department:** Inspect properties during the construction phase and ensure that all building requirements and specification set by Planning and legislation are fulfilled. This is especially relevant for matters such as gas protection membranes and venting, but can also include ground remediation and stabilisation. The information available varies slightly from authority to authority

**Petroleum Officer:** Attached either to the county fire service or Trading Standards, they regulate the storage and handling of petroleum. This includes underground and above ground storage tanks for a range of commercial and industrial uses. They often hold records of tank installations, decommissioning and integrity tests, as well as some data about known accidents, spills and leaks. The Petroleum Officer is often the most useful contact for former petrol stations.

**Environment Agency (Scottish Environmental Protection Agency):** Responsible for much of the regulation concerning pollution, waste and the environment. Enquiries about landfills, underground water, rivers and pollution incidents should generally be directed to the Environment Agency. They generally deal with all enquiries through a central administration body, with their charter generally giving response times between 10 and 20 working days.