

Consultation Response from: KC Environmental Health (Pollution & Noise Control)

2018/92647 – Former Kirklees College, New North Road, Huddersfield HD1 5NN

Hybrid Planning Application for mixed use development - retail/office and 239 residential units (Use Classes C3/A1/A3/B1a). Full Planning permission for the partial demolition of the former Kirklees College, erection of a food retail store with residential above and erection of two mixed use (retail/residential) buildings, alterations to convert grade ii* listed building to offices and creation of vehicular access from Portland Street, New North Road and Trinity Street. Outline application for erection of four buildings mixed use (residential/office) (Listed Building within a Conservation Area)

Date Responded: 17 Feb 2021	Responding Officer: Richard Hume Rebecca Muff (Air Quality) Natalie Heaney (Contaminated Land)	Responding Ref: WK/202104614
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Air Quality

An Air Quality Assessment by REC Ltd (Ref: AQ103917R1) (dated June 2018) has been submitted in support of the application.

The proposed mixed-use development site is located partially within an Air Quality Management Area (AQMA 9) which encompasses the ring road and Huddersfield Town Centre. According to the West Yorkshire Low Emission Strategy – Technical Planning Guidance the development is classified as Major in terms of air quality due to its size. Our main concerns therefore are firstly the impact the development will have on the existing AQMA and secondly it will be introducing sensitive receptors into an existing area of poor air quality.

The Air Quality Assessment includes the impact of the development during both the operational and construction phases. For the construction phase a qualitative assessment of dust levels was undertaken based on the Institute of Air Quality Management Guidance on the Assessment of Dust from Demolition and Construction.

For the operational phase detailed dispersion modelling using ADMS-Roads was undertaken in accordance with national guidance to predict future concentrations of particulates (PM₁₀) and Nitrogen Dioxide (NO₂) across the site.

The report concludes that during the construction phase there is the potential for fugitive dust emissions, however any impact could be reduced by the implementation of the mitigation measures listed in *Table 23 Fugitive Dust Mitigation Measures* on page 34 of the assessment. Therefore, the impact of dust during the demolition/ construction phase is predicted to be negligible.

For the operational phase the report concludes that predicted NO₂ and PM₁₀ concentrations would be below the national air quality objectives for those pollutants at all sensitive receptor locations across the site, and therefore the traffic generated because of the development is predicted to have a negligible effect on local air quality and the AQMA.

As the development is classified as major and in accordance with the West Yorkshire Low Emission Strategy- Technical Planning Guidance (WYLES) a damage cost calculation has also been provided to determine the amount (value) of mitigation required to offset the detrimental impact that the development will have on air quality. The calculation was undertaken in accordance with DEFRA guidance current at the time and provides a five-year exposure value to the sum of £341,130.93, and a list of potential best practice mitigation options have been listed for a development of this size. However, it goes on to say that the level of mitigation based on the calculated air quality impacts have financial implications and may affect the schemes viability.

Having assessed the report, we agree with the general methodology and approach that has been undertaken. However, the air quality assessment was undertaken in 2018 and the baseline data used for the dispersion modelling was taken from 2016 which is not representative of current conditions. Also, since that time the development plans have changed with most of the residential accommodation being to the north of the site which borders on to New North Road and Fitzwilliam Street. Modelling was undertaken to a height of 1.5m but this does not reflect the pollution concentrations at the facades of the buildings on the first to fifth floors where most of the residential units will be. As such the assessment does not provide us with the level of certainty that future residents will not be exposed to harmful levels of air pollution. It is noted that the submitted Noise Assessment indicates that the windows in the buildings facing New North Road and Fitzwilliam Street will need to be kept closed due to the impact of noise generated from the ring road and as such due to the uncertainty of the air pollution concentrations at the facades of these buildings the use of trickle vents would not be appropriate and alternative mitigation measures would be required. In addition, the cost damage calculation will need to be revised using the most recent DEFRA Emission Factor Toolkit (EFT).

Therefore, due to the reasons mentioned above we would recommend that a revised Air Quality Assessment is submitted, that will provide us with greater certainty that future residents will not be exposed to harmful levels of pollution and that the traffic levels generated by the proposed retail store will not impact on the adjacent AQMA.

We have concerns that the proposed 5 storey buildings facing New North Road and Fitzwilliam Street will create a canyoning effect resulting in poor dispersion of pollutants. Currently this area is fairly open space, therefore we would expect the assessment to consider the impact that these tall buildings will have on the air pollution in that location and the sensitive receptors who will be residing in/near to them. The assessment should also include a revised cost damage calculation. In addition, we require details of any necessary air quality mitigation measures, including a suitable ventilation scheme, to protect any future residents from being exposed to high levels of pollution. Any air quality mitigation scheme should be compatible with any noise mitigation measures.

However, for anything to be considered as acceptable as part of the approved low emission mitigation measures it must be something that is to be provided in addition to what is normally provided at a development and also is not otherwise required. For example, the costs of providing footpaths and standard electric vehicle charging points would not be accepted as part of the costed mitigation measures.

Therefore, a condition requiring an updated air quality impact assessment is necessary.

Contaminated Land

A Phase 1 Desk Study and Preliminary Phase 2 Geo-Environmental Assessment by WML Consulting dated 27th January 2019 (ref: 7344/G/01) has been submitted in support of the application. I have read the report. The report includes geo-technical information which is outside the remit of Environmental Health, this consultation response therefore only relates to the land contamination aspects of the report.

The report is in a combined Phase 1 and Phase 2 format. From the Phase I aspect of the report, it is apparent that there have been potentially contaminative uses on the site (and/or adjoining land) which could impact the development and/or the environment. These include a timber yard and unspecified works. The appraisal of the site setting also indicated the site is underlain by Pennine Lower Coal Measures. The Soft Bed Coal seam is indicated to underlie the site at shallow depths. From this, the preliminary conceptual model assigned a moderate risk from ground gas and a low likelihood of significant historic sources of contamination. As the report continued to provide a Phase 2 report, I consider the Phase I aspect of the report satisfactory.

The Phase 2 aspect of the report, detailed intrusive works undertaken in January 2017. Briefly, the key findings include the evidence of coal workings (voids) ranging between 0.25 m to 1.30 m thick beneath the site. A localised area of contamination was also identified associated with made ground. One sample exceeded the residential without plant uptake criteria for lead and several aromatic hydrocarbons. However, no exceedances against commercial criteria were observed. Gas monitoring was undertaken on 13th and 20th January 2017 and the carbon dioxide was detected at a maximum concentration of 2.3% v/v. No methane was detected, and no positive flow recorded. The report authors concluded the gas screening value was reflective of CS1. It was acknowledged in the report that further '*development specific ground investigations and analysis*' and '*completion of further development specific ground gas monitoring*' would be required later.

The Phase 2 aspect of the report is unsatisfactory for several reasons. For clarity these are presented point-by-point:

1. The ground gas and groundwater monitoring data provided is insufficient (two readings) compared to the acknowledged risk at Phase I level, confirmed evidence of shallow workings during the Phase 2 investigation and the (part) sensitive end-use.

Table 5.5a and Table 5.5b in the CIRIA C665 guidance details the typical/idealised periods and frequency of monitoring. For instance, sites with the lowest generation potential and highest sensitivity require at least 6 visits over 3 months. So, it is unclear as to how 2 readings over 7 days can adequately assess the ground gas regime at the site. Factors such as groundwater fluctuations remain unconsidered. Also, no justification has been provided concerning the cessation of monitoring. As part of the application site is for a sensitive residential end-use, it is considered that an incomplete and weak data set has been submitted to support the conclusions of CS1. Further ground gas and groundwater monitoring is therefore considered to be necessary to establish the ground gas regime on site. Any monitoring undertaken must be carried out following CIRIA C665 guidance.

2. Insufficient information provided about the localised contamination encountered within the shallow made ground.

The report dated 2017, acknowledges the requirement for further '*development specific*' ground investigations and analysis. It is unclear why further information has not been received about the localised contamination. It was suggested that the elevated readings may be associated with asphalt in the sample matrix, but it is unclear whether this is confirmed. It is appreciated that hard standing will take up a large amount of the proposed site which will ultimately remove direct pollutant linkages. Should areas of soft-landscaping remain in the final design, then further work is required to ascertain the extent of the localised contamination to propose a suitable remediation strategy for areas of soft-landscaping. Until further information is received the report is still unsatisfactory.

Overall, the Phase I aspect of the submitted report is satisfactory. However, the Phase II aspect of the report has left unquantified risks remaining on-site. As such, the Phase II aspect of the report is unsatisfactory. Contaminated land conditions are required for Phase II and the subsequent phases of development.

Noise

A Noise Impact Assessment by Philip Dunbavin Acoustics Ltd dated 11 Jul 2018 (ref: J001526/3211/RDC/1) has been submitted. The report details measurements of existing noise levels at a number of points around the site during the night-time through to early afternoon. From the assessment the report concludes that the main source of noise affecting the site is from traffic on the surrounding road network. From the measurements it predicts the likely noise levels at the façades of the noise sensitive parts of the proposed development. From that it identifies noise mitigation measures, comprising of glazing and acoustic trickle ventilation, that will be required to achieve satisfactory indoor sound levels at the proposed residential properties. The recommended specification of glazing and acoustic trickle ventilation for each façade is specified in the report.

The report also considers the potential impact of noise from external plant at the non-residential parts of the development and also from deliveries to the proposed retail areas. It recommends that the rating level of noise from non-residential external plant should not exceed 35dBA at noise sensitive residential façades and that deliveries to retail units should not occur at night (23:00 – 07:00).

The report advises that any alternative ventilation requirements for the residential units is outside the scope the report but recommends that the noise from any such systems should not exceed 45dBA at the external outlet.

The report is considered to provide a satisfactory assessment of the existing noise climate and make satisfactory noise mitigation proposals. The recommendations regarding noise from non-residential external plant, retail deliveries and residential ventilation extract outlets are also considered to be satisfactory. However, the currently proposed site layout differs from that detailed in the report and the changes will have an impact on the proposals for noise mitigation. In addition, the above-mentioned potential air quality issues at the site may require air quality mitigation measures that would result in ventilation openings on some facades

unacceptable. Any revised noise mitigation measures therefore need to be compatible with any air quality mitigation measures. Conditions are necessary to ensure that satisfactory noise mitigation and control measures are provided.

In addition, because the report recommends that windows to the residential units will need to be kept closed to achieve satisfactory indoor sound levels, it follows that if windows are opened then excessive indoor sound levels will arise. Therefore, opening windows to provide ventilation, in particular for cooling during hot weather, would not be appropriate. A condition is therefore also necessary to require the applicant to demonstrate how adequate alternative ventilation will be provided to substitute for opening windows. To be acceptable the alternative ventilation proposals will need to be compatible with any air quality mitigation measures.

Electric Vehicle Charging Points

A significant number of parking spaces are proposed at the development. In an application of this nature, it is expected that facilities for charging electric vehicles and other ultra-low emission vehicles are provided in accordance with the National Planning Policy Framework and *Air Quality & Emissions Technical Planning Guidance* from the West Yorkshire Low Emissions Strategy Group. A condition requiring charging points is therefore necessary.

External Lighting

Extensive areas of carparking are proposed at the development. It is expected that there will be a need to provide artificial lighting during the hours of darkness to these car park areas and possible other areas such as the retail service yard and pedestrian walkways for safety and security reasons. A condition regarding the specification of any external lighting is necessary to ensure that it is appropriate for the future use and is not excessive and does not cause excessive stray light and glare.

Construction Environmental Management Plan

Because of the nature and scale of the development and also because of the close proximity of existing properties close to much of the boundary of the site there is a potential risk that noise, vibration, dust and artificial light associated with the construction phase of the development will have an adverse impact on amenity. It is therefore necessary for a condition requiring the applicant to demonstrate how these risks will be minimised by the use best practice

Recommendations

Air Quality

AQIAC 1 Air Quality Impact Assessment – Impact of new development on the area-Condition

Before the development is brought into use a revised full Air Quality Impact Assessment shall be submitted to and approved in writing by the Local Planning Authority. The assessment shall:

- determine the impact that the development will have on air quality (taking into consideration any cumulative impact from other local developments)
- include a calculation of the monetary damages from the development and
- include a fully costed mitigation plan detailing the proposed low emission mitigation measures. The monetary value of the damages should be reflected in money spent on the low emission mitigation measures

The approved low emission mitigation measures shall be implemented before the development comes into use & retained thereafter.

Reason: For promoting sustainable development and transport and conserving the natural environment in accordance with parts 2, 9 & 15 of the NPPF and LP51 of the Local Plan

AQIAF1 Air Quality Impact Assessment - Footnote

For anything to be considered as acceptable as part of the approved low emission mitigation measures it must be something that is to be provided in addition to what is normally provided at a development and also is not otherwise required. For example, the costs of providing footpaths and standard electric vehicle charging points would not be accepted as part of the costed mitigation measures.

In the absence of acceptable proposals for Low Emission Mitigation Measures of sufficient value, a section 106 agreement may be required for the amount up to the estimated damage cost made available to the local authority to spend on air quality improvement projects within the locality.

Contaminated Land

CLC2 Submission of a Phase 2 Intrusive Site Investigation Report - Condition

Groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 178 and 179 of the National Planning Policy Framework

CLC3 Submission of Remediation Strategy - Condition

Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition (CLC2) further groundworks shall not commence until a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 178 and 179 of the National Planning Policy Framework

CLC4 Implementation of the Remediation Strategy - Condition

Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition (CLC3). In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered in either the Preliminary Risk Assessment or the Phase II Intrusive

Site Investigation Report is identified or encountered on site, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 178 and 179 of the National Planning Policy Framework

CLC5 Submission of Validation Report - Condition

Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the remediation measures have been completed for (that part of) the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the Local Planning Authority. Where validation has been submitted and approved in stages for different areas of the whole site, a Final Validation Summary Report shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 178 and 179 of the National Planning Policy Framework

CLC 7 Contaminated land - Footnote

All contamination reports shall be prepared in accordance with guidance in:

- *Land Contamination Risk Management (LCRM)*
- BS 10175:2011+ A2:2017 *Investigation of Potentially Contaminated Sites. Code of Practice*
- *Development on Land Affected by Contamination - Technical Guidance for Developers, Landowners & Consultants - (v11.2) June 2020* by the Yorkshire and Lincolnshire Pollution Advisory Group

Noise

Noise mitigation measures (where they are required and their specification) - Condition

Before construction work commences at any residential part of the development a further noise assessment report in relation to that part of the development shall be submitted to and approved in writing by the Local Planning Authority. The report shall:

- Clearly show which habitable rooms in which apartments will not achieve satisfactory indoor sound levels with windows open and for these rooms provide a detailed specification of the noise mitigation measures that are necessary to achieve satisfactory indoor sound levels, including an alternative ventilation scheme which shall show how these rooms will be provided with sufficient ventilation to help control thermal comfort and avoid over heating during hot weather without the need to open windows.
- Demonstrate that the operational noise of any alternative ventilation system will not cause unacceptable indoor sound levels.

- Ensure that any noise mitigation proposals do not conflict with any air quality mitigation proposals.

All works which form part of the approved scheme shall be completed prior to occupation of the aforementioned residences and retained thereafter.

NF4 Competent Person - Footnote

All noise assessments should be carried out by a competent person. Developers may wish to contact the Association of Noise Consultants <http://www.association-of-noise-consultants.co.uk/> (020 8253 4518) or the Institute of Acoustics <http://www.ioa.org.uk> (0300 999 9675) for a list of members.

NC10 - Noise from Fixed Plant & Equipment - Condition

The combined noise from any fixed mechanical services and external plant and equipment serving non-residential parts of the development shall be effectively controlled so that the combined rating level of noise from all such equipment does not exceed 35dBA. "Rating level" is as defined in BS 4142:2014+A1:2019.

Reason: To ensure the proposed development does not cause harmful noise pollution within neighbouring noise sensitive locations, in the interest of amenity, to comply with the aims and objectives of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

HUC3 Hours of Use for Deliveries – Condition

There shall be no deliveries to or dispatches from the retail premises within the development outside the hours of 07:00 and 23:00 on any day.

Reason: To ensure that the proposed use(s) does not give rise to the loss of amenity to nearby residential properties, by reason of noise or disturbance at unsociable hours, to accord with the aims of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

EVC1 Electric Vehicle Charging Points - Condition

Before the electrical system is installed at each phase of the development a scheme detailing the dedicated facilities that will be provided for charging electric vehicles and other ultra-low emission vehicles at that phase shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall meet at least the following minimum standard for numbers and power output:

- A Standard Electric Vehicle Charging point providing a continuous supply of at least 16A (3.5kW) for each residential unit that has a dedicated parking space
- One Standard Electric Vehicle Charging Point providing a continuous supply of at least 16A (3.5kW) for at least 10% of residential parking spaces that are not allocated to specific dwellings
- One Standard Electric Vehicle Charging Point providing a continuous supply of at least 16A (3.5kW) for at least 10% of non-residential parking spaces

Buildings and parking spaces that are to be provided with charging points shall not be brought into use until the charging points are installed and operational. Charging points installed shall be retained thereafter.

Reason: In the interest of supporting and encouraging low emission vehicles, in the interest of air quality enhancement, to comply with the aims and objectives of Policies LP20, LP24 and LP47 of the Kirklees Local Plan and Chapters 2, 9 and 15 of the National Planning Policy Framework.

EVF1 Electric Vehicle Charging Points – Footnote

- A Standard Electric Vehicle Charging Point is one which is capable of providing a continuous supply of at least 16A (3.5kW) and up to 32A (7kW). The higher output is more likely to be futureproof
- Standard charging points for single residential properties that meet the requirements specified in the latest version of “*Minimum technical specification - Electric Vehicle Homecharge Scheme (EVHS)*” by the Office for Low Emission Vehicles will be acceptable. Basically, charging points that provide Mode 3 charging with a continuous output of least 16A (3.5kW) and have Type 2 socket outlet would be acceptable.
- At non-residential developments, the requirement for one standard electric vehicle charging point for at least 10% of parking spaces may initially be reduced to one charging point for at least 5% of parking spaces with the remainder provided at an agreed trigger point.
- For developments where some or all of the parking is likely to be used for shorter stay parking (30mins to 4 hours) then Fast (7-23kW) or Rapid (43kW+) charging points may be more appropriate. If Fast or Rapid charging points are proposed together with restrictions on the times that vehicles are allowed to be parked at these points then a lower number of charging points may be acceptable.
- The electrical supply of the final installation should allow the charging equipment to operate at full rated capacity.
- The installation must comply with all applicable electrical requirements in force at the time of installation.

External Lighting

LC1 External Artificial Lighting - Condition

Before the installation of external artificial lighting commences a lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme should include the following information:

- a) The proposed hours of operation of the lighting
- b) The location and specification of all of the luminaires
- c) The proposed design level of maintained average horizontal illuminance for each of the specific areas that needs to be illuminated.
- d) The predicted vertical illuminance that will be caused by the proposed lighting when measured at windows of any properties in the vicinity.
- e) The measures that will be taken to minimise or eliminate glare and stray light arising from the use of the lighting that is caused beyond the boundary of the site
- f) The methods of switching and controlling the lighting so that it is only operated at the permitted times and at times when it is required.

The external artificial lighting shall be installed and operated thereafter in accordance with the approved scheme.

Reason: To safeguard the amenities of the occupiers of nearby properties and promote sustainable development in accordance with part 2 and 15 of the NPPF and **xxxxx** of the Local Plan

LF1 Artificial lighting - Footnote

The proposed design levels of illuminance should be shown to be appropriate for the intended use by reference to appropriate guidance. Generally, to minimise problems of glare and stray light from external artificial lighting it should be installed and maintained in accordance with the *“Guidance Notes for the Reduction of Obtrusive Light”* by the Institution of Lighting Professionals: 2011 www.theilp.org.uk. The predicted levels of stray light must not exceed the recommended maximum levels given in Table 2 of this guidance for an Environmental Zone E3.

CEMPC Construction Environmental Management Plan - Condition

Prior to demolition or development commencing a Construction Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the Local Planning Authority. The plan shall describe in detail the actions that will be taken to minimise adverse impacts on occupiers of nearby properties by effectively controlling:

- Noise & vibration arising from all construction related activities. This should also include suitable restrictions on the hours of working on the site including times of deliveries.
- Dust arising from all construction related activities.
- Artificial lighting used in connection with all construction related activities and security of the construction site.

The agreed plan shall be adhered to throughout the construction of the development.

Reason: To safeguard the amenities of the occupiers of nearby properties in accordance with part 15 of the NPPF and **xxxxx** of the Local Plan

CEMPF Construction Environmental Management Plan - Footnote

Noisy construction related activities should not take place outside the hours of:

07.30 to 18.30 hours Mondays to Fridays

08.00 to 13.00 hours, Saturdays

With no noisy activities on Sundays or Public Holidays

Institute of Air Quality Management document *“Guidance on the assessment of dust from demolition and construction”* Version 1.1 2014 provides detailed information regarding dust control.

Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.