



Planning and Development Service
Economy and Infrastructure
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Joseph Battye,
Batley Variety Club Ltd
Redbrick Mill
218, Bradford Road
Batley
WF17 6JF

Date: 12-Apr-2021
Our Ref: 2021/90361

Dear Sir,

**Application for Approval of Details Reserved by Condition
Town and Country Planning Act 1990
Planning (Listed Buildings and Conservation Areas) Act 1990**

**Discharge conditions 3, 5, 7-14, 16, 18 on previous permission 2020/91376 for
erection of D2 (leisure building) and B1c /B8 (starter unit/trade counter building)
Land adj, 260, Bradford Road, Batley, WF17 6JD
Application Number: 2021/90361**

I write with reference to your application to discharge the conditions for the above
development as submitted on 01-Feb-2021.

Summary

Conditions discharged: 8 and 10

Conditions not discharged: 5, 7, 9, 11, 12, 13, 14, 16 and 18

Conditions 3 and 14 do not require details to be submitted. They require compliance as
per the wording of the conditions. As such, they cannot be formally discharged.

Condition 3 (External Walling Materials)

You have submitted email correspondence from 'LGS Projects Ltd' with a data sheet for
80mm Insulated Panels; JI Roof 1000 and JI Wall 1000 (supplier Jorisode). However,
Condition 3 does not require details to be submitted for formal discharge. It is a
compliance condition that requires the external walling materials of the buildings to be
steel cladding as labelled on the plans approved in accordance with 2020/91376 and for
these materials to be thereafter retained. As such, the condition cannot be formally
discharged.

Condition 5 (Ecological Design Strategy)

The submitted letter from Whitcher Wildlife states that that a Preliminary Ecological Appraisal or Biodiversity Metric Calculations are not required to support the application due to the low ecological value of the site. However, it was determined by Kirklees Council Ecology that due to the proximity of the Kirklees Wildlife Habitat Network (KWHN) and Batley Beck there was the possibility of indirect harm to the ecological functions of these networks and that there is the potential for significant biodiversity net gain post-development.

Local Plan Policy LP30ii requires development to “*minimise impact on biodiversity and provide net biodiversity gains through good design*”. Therefore, the condition for an ecological design strategy was applied in order to secure ecological enhancement post-development. Suggested enhancements were included within the original response by Kirklees Council Ecology. Due to the proximity to the KWHN therein also lies opportunities to strengthen and safeguard this network in accordance with LP30iii.

The proposals are currently not in accordance with LP30 or the National Planning Policy Framework. Condition 5 cannot be discharged without sufficient evidence that a biodiversity net gain will be achieved post-development. This should be demonstrated through the production of an Ecological Design Strategy which meets the objectives of Condition 5 (as outlined by BS 42020).

This matter can be addressed as part of this application and a fresh application and fee are not required if you provide the required information within 28 days of the date of this letter. Otherwise a new application and fee will be required.

Conditions 7, 8 and 9 (Drainage)

You have submitted:

- Flood Evacuation Plan, prepared by JNP Group, number B21408-JNP-XX-XX-RP-C-0001, revision P01, dated 22/12/20;
- Below Ground Drainage Layout Overall Site, prepared by Icis Design Limited, number 10688- C-XX-00-GA-6000, revision P1, dated 22.01.21;
- Below Ground Drainage Layout Sheet 1, prepared by Icis Design Limited, number 10688-C-XX-00-GA-6001, revision P1, dated 22.01.21;
- Below Ground Drainage Layout Sheet 2, prepared by Icis Design Limited, number 10688-C-XX-00-GA-6002, revision P1, dated 22.01.21; and
- MicroDrainage outputs, prepared by Flo Consult UK, dated 22/01/2021.

Condition 7 (Scheme detailing foul, surface water and land drainage)

The Lead Local Flood Authority has raised a number of concerns with the details of the proposed scheme of foul, surface water and land drainage and further information is required. Their comments are included below:

- The applicant proposes to discharge surface water at 4.2l/s. in the very first LLFA response to the application number 2020/91376 (responding reference 0, dated 8 July 2020), the LLFA stated 'no objection in principle and would accept a maximum discharge rate from the site of 3.85l/s'. A justification for the increase in proposed discharge, as well as associated calculations, should be provided for review.
- There are discrepancies between the drawings and the MicroDrainage outputs, in sizing and cover level of some of the manholes. This should be reviewed and updated information provided.
- No longitudinal sections of the system have been submitted (as requested in the Condition 7) – this should be provided for review.
- According to the drawings, the proposed attenuation tank is to be 330m² by 0.8m in size, with 95% porosity (taken from MicroDrainage). This would provide 250.8m³ of storage volume, not 264m³, as stated in the drawing. This should be reviewed and updated information provided.
- There don't appear to be any manholes or access points to the proposed attenuation tank. Cellular storage tanks have been known to cause issues across Kirklees, especially due to issues with siltation. The applicant should carefully consider how this attenuation will be maintained to continue providing the storage required, throughout the lifetime of the development. The applicant should also consider other options for attenuation and whether those would be more suitable.

Condition 7 cannot be discharged at this time. This matter can be addressed as part of this application and a fresh application and fee are not required if you provide the required information within 28 days of the date of this letter. Otherwise a new application and fee will be required.

Condition 8 (Flood Warning)

The details are considered to be satisfactory for the purposes of condition 8 provided that the evacuation plans are implemented in accordance with the approved details prior to work commencing on site (for the construction phase) and prior to the occupation of the development (for the future residents) and be retained thereafter.

Condition 9 (operation, maintenance and management of surface water drainage infrastructure)

In respect of Condition 9 no management and maintenance information has been submitted. Condition 9 cannot be discharged at this time. This matter can be addressed as part of this application and a fresh application and fee are not required if you provide the required information within 28 days of the date of this letter. Otherwise a new application and fee will be required.

Condition 10 (Phase 1)

You have submitted a Phase I Desk Study Assessment Report by Brownfield Solutions Ltd dated August 2020 (ref: AH/C4575/9450 Rev A). The details are acceptable for the purposes of Condition 10, which can be discharged.

Condition 11 (Phase II)

You have submitted a Geo-Environmental Assessment Report by Brownfield Solutions Ltd dated January 2021 (ref: MS/C4575/9676 Rev A). Environmental Services have raised a number of concerns as detailed below:

The report details the findings from an intrusive investigation undertaken on 1st and 3rd December 2020 which included 4 trial pits and 3 cable percussive boreholes. Ground gas and water monitoring standpipes were installed in the 3 boreholes. No exceedances against the selected soil screening values were identified. However, the report considers that gas protection measures are required reflective of CS2 due to previous gas monitoring undertaken.

However, several parts of the reports remain unclear. For clarity, these have been addressed point-by-point below:

(1) The previous Phase I report also by Brownfield Solutions Ltd (ref: AH/C4575/9450 Rev A) recommended that ground gas and water monitoring should be completed. In line with CIRIA C665 guidance, it was recommended that 12 monitoring visits over 6 months should be completed, indicating a high gas generation potential at the identified sources. In the current report, there is a reference to the installation of ground gas standpipes in 3 boreholes during the 2020 investigation. However, the evaluation of ground gas data provided in Section 8 of the report is based on previous monitoring undertaken by JPG. The report then specifies gas monitoring by JPG was undertaken on 6 occasions between 27th March and 29th April 2014. This predates the Phase I assessment. It is unclear why no further gas monitoring has been provided given the identified potential risks. Further information is necessary to confirm, to a high degree of confidence, that the proposed CS2 gas protection measures will be adequate.

(2) From Point 1, it is also unclear why total organic carbon (TOC) data has been used to determine the ground gas regime given the identified potential risks on site. Furthermore, it does not appear to be in line with the current guidance in British Standard 8485:2015+A1:2019 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings. Whilst we accept ground gas risk can be assessed using an empirical approach with TOC data, this applies to sites where made ground is less than 5m depth or an average less than 3m. The trial pit logs in the appendix show that trial pits TP01, TP02, TP03, and TP04 were terminated at depths of 3.5m, 2.5m, 2.9m and 2.20m, respectively. These were entirely made ground. So, it is unclear

whether these may extend past 5m. Further clarification is required to support these conclusions.

(3) Section 4.4 it states that 6 samples were sent for total organic carbon content (TOC) analysis. Later in Section 8.5, there is a reference to 5 samples. Further clarification is needed to determine the number of samples analysed for TOC. Overall, the report provided is unclear and unsatisfactory.

In accordance with the above comments from Environmental Services the details are not considered to be acceptable to discharge condition 11. This matter can be addressed as part of this application and a fresh application and fee are not required if you provide the required information within 28 days of the date of this letter. Otherwise a new application and fee will be required.

Condition 12 (Remediation Strategy)

At the time of writing, no remediation strategy has been received and Condition 12 cannot be discharged. This matter can be addressed as part of this application and a fresh application and fee are not required if you provide the required information within 28 days of the date of this letter. Otherwise a new application and fee will be required.

Condition 13 (Remediation in accordance with the approved Strategy)

Until the development is complete, there is the likelihood that unexpected contamination not previously considered may be encountered. It is also unclear at the time of writing what remediation is required onsite. At this time Condition 13 cannot be discharged.

Condition 14 (Site to be developed with separate systems of drainage for foul and surface water on and off site)

Condition 14 does not require details to be submitted for formal discharge. It is a compliance condition that requires the site to be developed with separate systems of drainage for foul and surface water on and off site. As such, the condition cannot be discharged.

Condition 16 (Drainage Outfall)

As above, the LLFA have raised concerns about the submitted scheme of foul and surface water drainage subject to condition 7 and revised details are required. As such, condition 16 cannot be discharged at this time. This matter can be addressed as part of this application and a fresh application and fee are not required if you provide the required information within 28 days of the date of this letter. Otherwise a new application and fee will be required.

Condition 18 (Noise Report)

You have submitted a Noise Impact Assessment authored by Dragonfly Consulting dated 27 January 2021 Ref DC3473-R1. Environmental Services have provided the following comments:

Para 4 of the report states that due to the Covid 19 restrictions brought into force in England on the 5th of January 2021, no specific noise survey has been completed for this development. In the absence of any site specific measured noise data, noise levels from a noise assessment completed by ADC Acoustics for the 'Starbucks Drive' Thru Coffee Shop, located at the southern end of the development site (ref: ARR/C/2565.35 dated 18th September 2019 and submitted to Kirklees Council as part of a discharge of conditions application (ref: 2019/44/92988/E)), have been utilised. Whilst reference has been made to the Association of Noise Consultants (ANC) and the Institute of Acoustics (IoA) Joint Guidance on the Impact of COVID-19, it should be noted that it was, and still is, possible to conduct noise surveys in a COVID compliant manner.

Amongst other noise more pertinent to the 2019/92988 application, the ADC Acoustics report details measurements of existing noise levels and considers the potential impact of noise from customer and delivery vehicles, door slams and fixed mechanical equipment. It is proposed to construct two shell units on the site which will be handed over to future occupiers for fit out and as such no detailed plant scheme is available at this stage.

The ADC Acoustics report considers a BS4142 assessment of the likely noise from the development and calculates that the rating level of the noise will be below background levels at all times of the day. It also predicts that the noise from the site will not cause the recommended maximum levels in BS8233 to be exceeded at noise sensitive premises. It also points out that the main noise source from the development is likely to be from vehicles visiting the premises which will be of the same nature as the nearby road traffic noise and therefore likely that it will be indistinguishable.

The Dragonfly report states that as there is currently insufficient detail available as to the type, size and exact location of the fixed plant to permit a detailed assessment, limits will be provided for the maximum allowable plant noise levels at the nearest noise sensitive receptor, based on the lowest background noise levels. However, the ADC Acoustics report advises that the predicted levels are based on mitigation provided by a 2m high solid close boarded fence (12mm thick) around the plant compound and along the southern boundary of the site and this is not referred to in the Dragonfly report. Clarification is sought on whether the ADC Acoustics mitigation measures are applicable to this site too.

The report fails to meet the requirements of condition 18 therefore it should not be approved. There is no reference to permission from ADC Acoustics to use the report and based on the uncertainty of the report and the levels referred to within it, I recommend that the condition is not discharged at this moment.

In accordance with the comments from Environmental Services, Condition 18 cannot be discharged. This matter can be addressed as part of this application and a fresh application and fee are not required if you provide the required information within 28 days of the date of this letter. Otherwise a new application and fee will be required.

Yours faithfully

pp Kate Mansell

Mathias Franklin
Head of Planning and Development

Please direct any queries to louise.bearcroft@kirklees.gov.uk