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| <b>Consultation Response from: KC Environmental Health (Pollution &amp; Noise Control)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                     |                                               |
| <b>2021/90552 - Land off, Ravensthorpe Road, Dewsbury, WF12 9EE</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                     |                                               |
| <b>Formation of 43 allotments, 17 car parking spaces, new access road and 1.8m high palisade fencing with access gates</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                     |                                               |
| <b>Date Responded:</b><br><b>13<sup>th</sup> May 2021</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>Responding Officer:</b><br><b>Natalie Heaney</b> | <b>Responding Ref:</b><br><b>WK/202106740</b> |
| <p><b>Contaminated Land</b></p> <p>Several documents have been received to support of the application:</p> <ol style="list-style-type: none"> <li>1. Phase I Environmental Desk Study by Rogers Geotechnical Services Ltd dated 9<sup>th</sup> October 2020 (ref: C1035/20/E/1613)</li> <li>2. Coal Risk Assessment by RGS dated 14 Oct 2020 (ref: C1035/20/E/1615)</li> <li>3. Environmental Report by Rogers Geotechnical Services Ltd dated 28<sup>th</sup> January 2021 (ref: C1035/20/E/1613/R1)</li> <li>4. Coal Investigation Report by RGS dated 28<sup>th</sup> January 2021 (ref: C1035/20/E/1902)</li> <li>5. Remediation Statement for Topsoil by Ashton Bennett dated January 2021 (ref: Report KC 3464REM Rev 1)</li> </ol> <p>I have read the reports provided. The reports include 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.</p> <p>First from the Phase I Environmental Desk Study by Rogers Geotechnical Services Ltd dated 9<sup>th</sup> October 2020 (ref: C1035/20/E/1613) and Coal Risk Assessment by RGS dated 14 Oct 2020 (ref: C1035/20/E/1615) it is apparent that there have been potentially contaminative uses on the site (and/or adjoining land) which could impact upon the development and/or the environment. Consequently, both reports conclude that intrusive work is necessary to determine the contamination status and coal mining legacy at the site. We agree with the findings of these two reports and confirm they are satisfactory.</p> <p>In terms of intrusive investigations, an Environmental Report by Rogers Geotechnical Services Ltd dated 28<sup>th</sup> January 2021 (ref: C1035/20/E/1613/R1) and a Coal Investigation Report by RGS dated 28<sup>th</sup> January 2021 (ref: C1035/20/E/1902) have been received.</p> <p>First, the Environmental Report (ref: C1035/20/E/1613/R1) details the findings from the intrusive investigation undertaken in October 2020. Briefly, the report identified significantly high concentrations of arsenic across the site with values ranging from 12 mg/kg to 110 mg/kg, with an average value of 42 mg/kg. The report recommends a site-specific remediation strategy is required once the precise nature of the development has been finalised. However, there are several areas in the report that require further clarification. For clarity, these are addressed point-by-point below:</p> <ol style="list-style-type: none"> <li>a) On Page 7 of the report, Table 5 provides a summary of contaminants found to exceed residential with plant uptake soil screening values. This includes '<i>supplementary metal tests</i>' that were not tested for '<i>arsenic as a semi-metal</i>.'</li> </ol> <p>Whilst it is encouraging to see further laboratory testing, it is unclear why these further</p> |                                                     |                                               |

tests were conducted, and furthermore why arsenic was missing from these further tests if it had previously been identified as a contaminant of concern at the proposed site. Further information relating to this point is required.

- b) On Page 8 of the report, it states that '*bio testing*' for arsenic revealed the concentration to be absorbed by humans would be below the appropriate SSV. The use of '*bio testing*' is unclear. Clarification is required.
- c) Following on from point b, later in the conceptual site model (Page 11, Table 7) it states there is a moderate risk from arsenic and further testing is required to prove the arsenic is bioavailable. This information appears contradictory in comparison to earlier statements. The results of the arsenic bioaccessibility tests are also not summarised or discussed in depth but presented solely in the laboratory data sheets.

As significant concentrations of arsenic have been identified at a site that is ultimately to grow plants for consumption, any bioaccessibility data is crucial to the report. This must be clearly detailed in the report and a detailed commentary on the findings must be presented. At the time of writing, it is unclear whether any further tests are required and what these further tests may be.

For the reasons outlined, the Environmental Report (ref: C1035/20/E/1613/R1) is considered unsatisfactory and further information is required.

Next, the Coal Investigation Report (ref: C1035/20/E/1902) details the findings from the intrusive investigation undertaken in October 2020. One mine shaft was identified on site and one suspected shaft could not be located. However, these indicate the site is associated with previous coal mining. As no structures are proposed at the site, then Environmental Health consider no risk in relation to coal workings (i.e. mine gas). It has also been demonstrated in the Environmental Report (ref: C1035/20/E/1613/R1) that the combustion risk is negligible due to the low calorific content of the samples analysed. For that reason, the Coal Investigation Report (ref: C1035/20/E/1902) is deemed satisfactory from an Environmental Health aspect.

A Remediation Statement for Topsoil by Ashton Bennett dated January 2021 (ref: Report KC 3464REM Rev 1) has been received. The report details the remediation strategy for clean cover, coal seams and ground gas. Firstly, it is specified that 600mm of soil is removed and replaced with 600mm clean cover (500mm topsoil and 100mm granular material). Then it is detailed that should a coal seam be identified; this will be sealed with concrete to prevent spontaneous combustion. Lastly, whilst it is specified that '*buildings will not initially be constructed on site*', it is considered that any future buildings must be fitted with a 2000-gauge methane and radon protective membrane incorporated into the ground slab, in line with CIRIA recommendations. The report concludes by providing unexpected contamination and validation proposals. Issues exist with the submitted report that require further justification and clarification:

- a) In Table 2 of the submitted report, the screening values for imported soil/topsoil are detailed. These include a mixture of C4SL and ATRISK soil screening values. However, the reasoning behind these chosen screening criteria used is not clearly specified. For instance, C4SL values for arsenic, chromium (VI) and mercury are much higher when

using C4SL values and subsequently are more liberal thresholds compared to Atrisk values. Previous screening values quotes at Phase II level (ref: C1035/20/E/1613/R1) recommended Atrisk SSVs. Unless justification can be provided for use of the higher screening values, in light of the sensitive end-use the more conservative, lower screening values should be utilised to ensure future risk to end-users.

For this reason, the Remediation Strategy submitted (ref: Report KC 3464REM Rev 1) is considered unsatisfactory. It is also inappropriate at this stage, to consider the Phase III report due to uncertainties pertaining to the Phase II report (ref: C1035/20/E/1613/R1). Should any changes be identified at Phase II level, these should also be made in addition to any changes made in response to our commentary.

In summary, Phase I Environmental Desk Study by Rogers Geotechnical Services Ltd dated 9th October 2020 (ref: C1035/20/E/1613) and Coal Risk Assessment by RGS dated 14 Oct 2020 (ref: C1035/20/E/1615) submitted in support of the application are considered satisfactory. The Coal Investigation Report (ref: C1035/20/E/1902) is also considered satisfactory. However, as further information relating to the Environmental Report by Rogers Geotechnical Services Ltd dated 28th January 2021 (ref: C1035/20/E/1613/R1) is required, contaminated land conditions from Phase II onwards are necessary.

It is important to note the remediation strategy has referred to potential future construction on the site. We consider that without ground gas monitoring it would be unclear, whether the gas protective elements proposed in Report (KC 3464REM Rev 1), would be suitable for any future buildings on the site. For instance, the site could fall into CS3, in which case CS2 measures would be inadequate. Our records also indicate the site is within 250m of historic landfill. For any future buildings requiring groundworks, evidence would be required that confirms, to a high degree of confidence, that no risk of ground gas exposure to site-users exists. Also, this would need to demonstrate that any proposed measures would adequately protect any buildings that may be erected at the site in the future.

### **Electric Vehicle Charging Points**

The application includes the formation 17 car parking spaces to serve the 43 allotments. 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.

### **Construction Hours**

The proposed development is close to residential properties. Restricting the hours of construction activities (e.g., clearing activities, the construction of the fencing and tarmacking) is appropriate to minimise adverse impacts on occupiers of nearby properties. For that reason, conditions relating to construction times are required.

### **Recommendations**

#### **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 by a suitably competent person 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 by a suitably competent person 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 by a suitably competent person 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 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.

**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 by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2019. Reports must be prepared in accordance with the following guidance:

- *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,*

### **EVC1 Electric Vehicle Charging Points - Condition**

In the event that an electricity supply is to be provided at the proposed development, before any electrical system is installed, a scheme detailing the dedicated facilities that will be provided for charging electric vehicles and other ultra-low emission vehicles 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:

- 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
- 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.

### **CSC1 Construction Site Working Times - Condition**

Noisy construction related activities shall 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

**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

### **CSF1 Construction Sites working times – Footnote**

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.