

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended)

**DELEGATED DECISION TO DETERMINE APPLICATIONS FOR
CONSENT, AGREEMENT OR APPROVAL REQUIRED BY CONDITION**

Reference No: 2021/44/91762/W

Site Address: Baitul Tauheed Mosque, Fartown Pavilion, Spaines Road, Fartown, Huddersfield, HD2 2QA

Description: Discharge of conditions 5 and 6 of previous permission 2017/92958 for alteration and extension to community and recreation centre and mosque with ancillary residential accommodation, car parking, landscaping and revised boundary treatment including demolition of existing outbuilding.

Recommending Officer: Nick Hirst

DECISION – Discharge of Conditions – Refuse

I hereby authorise the refusal of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

Victor Grayson

AUTHORISED OFFICER

Date: 16-Jun-2021

Application: 2021/44/91762/W

Site: Baitul Tauheed Mosque, Fartown Pavilion, Spaines Road, Fartown, Huddersfield, HD2 2QA

Proposal: Discharge of conditions 5 and 6 of previous permission 2017/92958 for alteration and extension to community and recreation centre and mosque with ancillary residential accommodation, car parking, landscaping and revised boundary treatment including demolition of existing outbuilding.

Assessment

Condition 5

5. Site investigation works shall be carried out in accordance with conclusion contained within the submitted report approved pursuant to condition 4 before development commences.

Reason: *To identify and remove unacceptable risks to human health and the environment with regard to historic coal mining legacy and in accordance with guidance contained within Policy G6 of the Kirklees Unitary Development Plan, PLP53 of the Kirklees Publication Draft Local Plan and the National Planning Policy Framework. This is a precommencement condition so as to ensure that appropriate measures are incorporated into the development at the relevant stage.*

This is a prescriptive condition which does not require discharging. It is, however, noted that K.C. Environmental Health, having reviewed the submitted information, are satisfied that the works approved pursuant to condition 4 have been undertaken.

A note to this effect may be included in the decision notice, for clarity.

Condition 6

6. A report of findings arising from the intrusive site investigation works pursuant to condition 5 shall be submitted to and approved in writing before development commences. The report shall include a scheme of remedial works for the shallow coal workings together with a timetable for the implementation and completion of the approved remediation measures.

Reason: *To identify and remove unacceptable risks to human health and the environment with regard to historic coal mining legacy and in accordance with guidance contained within Policy G6 of the Kirklees Unitary Development Plan, PLP53 of the Kirklees Publication Draft Local Plan and the National Planning Policy Framework. This is a precommencement condition so as to ensure that appropriate measures are incorporated into the development at the relevant stage.*

This condition was requested by K.C. Environmental Health, who have stated:

For the purpose of discharging Condition 6, a Phase 3 Remediation Statement by Solmek Ltd dated April 2021 (ref: S190527/REM) has been received.

The remediation strategy provides an outline of the remediation works to be carried out. Briefly, these include but are not limited to, the provision of hard cover, a clean cover system in the proposed soft landscaped areas and the installation of gas protection elements. The clean cover system proposed comprises of a minimum of 300mm clean imported subsoil topped with 150mm clean imported topsoil to a total thickness of 450mm. The report justifies the provision of 450mm clean cover by stating that the proposed end-use is soft-landscaping rather than gardens. There is also reference to BS3882:2015 and YALPAG Verification Requirements for Cover Systems, Technical Guidance for Developers, Landowners and Consultants guidance. We accept the proposals for a minimum of 450mm clean cover system due to the reduced risk of exposure to receptors in public open space and soft-landscaping here, compared to garden areas.

Concerning the hotspot delineation at BH3 and BH5, the report states that visually or olfactory materials will be excavated and that excavations will continue horizontally and vertically until 'clean' soils are exposed. Following this, samples will be taken from the sides and base of the excavation, compared to threshold values and repeated should any values fail. A PID detector will also be used to check for VOC levels. Further clarification here is required.

The gas protection elements proposed to achieve a total score of 3.5 relevant to Characteristic Situation 2 are a precast suspended segmental subfloor, a clear subfloor void (1.5) and a gas protection membrane (2). We are satisfied that this combination will provide the necessary protection against ground gas exposure to end-users at the site.

Additionally, the report details information concerning imported fill materials and screening criteria and verification proposals. These are considered satisfactory.

Concerning the areas requiring further attention, these are addressed point-by-point below:

- 1. Regarding hotspot delineation at BH3 and BH5, the report reads that 'any visually stained or olfactory odour materials will be excavated' and 'excavations will continue both horizontally and vertically until 'clean' soils are exposed'. It is unclear from this statement whether any excavations will take place if no visually or olfactory material is observed at the BH3 and BH5 sample locations. Visual and olfactory determination of contaminated soils*

is subjective, and contamination may exist regardless of these field signs. Further clarification is required to confirm delineation will continue if in the absence of visual or olfactory contamination and the proposed lateral and horizontal extents for excavation must be provided.

2. *As per the requirements for Condition 7, if contamination not previously considered in the remediation strategy 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 must be notified in writing within 2 working days. The report does not consider notifying the Local Authority and this must be included in the report.*

Officers support the above conclusions, and are therefore unable to recommend the discharge of condition 6 at this time.

Summary

Condition 5 is a prescriptive condition and cannot be discharged.

Condition 6 cannot be discharged, as the submitted details are unacceptable.

Correspondence is ongoing between officers and the applicant on the unresolved conditions. To work proactively with them, it is considered reasonable to give the applicant a one month / four-week timescale to submit further details as part of this application, in the interest of taking a flexible and supportive approach

Recommendation: Refuse DOC, giving the applicant 4 weeks to provide further details.

Report Dated: 16/06/2021

Proposed Letter Text

Condition 5

Condition 5 is a prescriptive condition which requires that "Site investigation works shall be carried out in accordance with conclusion contained within the submitted report approved pursuant to condition 4 before development commences".

The condition does not require the submission of any details and therefore cannot be discharged. Conversely, based on the details submitted, officers do note that the condition has been complied with.

Condition 6

A Phase 3 Remediation Statement by Solmek Ltd dated April 2021 (ref: S190527/REM) has been received to discharge condition 6.

The following issues have been identified that prevent the condition being discharged at this time:

1. Regarding hotspot delineation at BH3 and BH5, the report reads that '*any visually stained or olfactory odour materials will be excavated*' and '*excavations will continue both horizontally and vertically until 'clean' soils are exposed*'. It is unclear from this statement whether any excavations will take place if no visual or olfactory material is observed at the BH3 and BH5 sample locations. Visual and olfactory determination of contaminated soils is subjective, and contamination may exist regardless of these field signs. Further clarification is required to confirm delineation will continue if in the absence of visual or olfactory contamination and the proposed lateral and horizontal extents for excavation must be provided.
2. As per the requirements of Condition 7, if contamination not previously considered in the remediation strategy 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 must be notified in writing within 2 working days. The report does not consider notifying the Local Authority and this must be included in the report.

Please consider the above and amend the report accordingly.

The submission of further details

Further details are required to discharge condition 6. If the requested details are provided within four weeks of the date of this letter, they will be accepted as part of this application. Please quote 2021/91762 and send the details directly to nick.hirst@kirklees.gov.uk.

After four weeks, a further Discharge of Condition application will need to be submitted.