

Consultation Response from: KC Environmental Health (Pollution & Noise Control)
2021/93305 - 61-65 New Street, Huddersfield, HD1 2BQ
Change of use and conversion of existing buildings, erection of split-level seven storey extension comprising four-storey stairwell, five-storey roof-top tower block and enclosed courtyard to form 31 dwellings and sub-division of the retail unit forming 61-63 New Street (Listed Building within a Conservation Area)
**Date Responded:
21 January 2022**
**Responding Officers:
Mohammed Nasim
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**Responding Ref:
WK/202140124**

63 New Street is currently a vacant former retail unit. 65 New Street is currently occupied by the Post Office and Rotti Bar which occupy the ground floor and basement. The upper floors of both buildings are currently vacant. The application seeks to convert 63 and 65 New Street to form 2 retail units to the ground floor and new apartments and maisonette to the first and second storey. The proposals also include the conversion of the existing rear mill range to form 8 new apartments, the erection of a seven-storey accommodation block and access. A total of 31 dwellings are proposed (21 one-bedroom apartments and 10 two-bedroom apartments). Having assessed the application, we make the following comments -

Noise

The applicant has submitted an Environmental Noise Survey, Noise Break-in Assessment & Sound Insulation Scheme authored by NOVA Acoustics dated 07 January 2022 Ref 7062SA. The Scope and Objectives of the report are summarised as follows –

- Ambient sound monitoring survey to evaluate the prevailing ambient and maximum sound levels incident on the proposed development
- A detailed assessment of the suitability of the site, in accordance with relevant standards in respect of sound from the surrounding noise sources
- Recommendation of mitigation measures, where necessary

An environmental sound survey was carried out from 17 December 2021 to 20 December 2021 and the measurement positions (MP) are shown in figure 1. MP1 is to the front of the property and MP2 is at the rear. These monitoring positions were chosen in order to collect representative sound levels at the proposed development during the daytime and night-time periods. The report states the area surrounding the site is primarily commercial in nature with a minority of residential dwellings. The noise profile is typical for this type of area and is dominated by road traffic noise emissions from surrounding roads and footfall from pedestrians and patrons of the local retail units and public houses. Plant units are located to the rear of site which service the neighbouring public house (The Albert). The rear of site also overlooks a smoking shelter and beer garden for The Albert. Buses frequently pass by the property to the south.

A summary of the measured results is shown in table 1.0 and as is typical of a town centre environment, they are elevated for both MPs and also for daytime and night-time periods. The L_{max} results are summarised in table 2.0 and whilst the number of exceedances are similar, the statistically most repeated levels are higher at MP1.

During the site visit, it was noted that the following are located to the rear of the development

- A commercial refuse area
- Plant units

In order to account for these noise sources, a rating penalty of +3dB was added to the measured day time and night-time noise levels to account for the intermittent component of the plant noise emissions.

Section 4 assesses the noise break in which is based on the following -

- The highest 1-hour measurements during the day and night-time periods recorded at MP1 and MP2
- The BS4142 rating penalty for noise levels measured at the rear of the development (MP2)
- The LAF_{max,15min} exceeded fewer than 10 times during the night-time recorded at MP1 and MP2.

Reasonable assumptions have been made on the façade sound reduction and predicted internal noise levels.

The report states that the measured sound levels at the façades of the property vary significantly and in order to correctly specify the required sound reduction, the façades have been divided into two colour groups: red and green. Appropriate models of glazing and ventilation for each façade colour are shown in Tables 4 to 8. Secondary glazing and double-glazing options have been given for the red façades as it is thought the new extension to the building is likely to have double-glazing installed. Based upon a partially open window, the calculations show that the internal noise levels are predicted to be significantly above the criteria, and as such, the report recommends that secondary ventilation is also employed and a through wall system is recommended.

The applicant is advised that an alternative ventilation system would need to provide a level of ventilation to properties affected by excessive external noise, sufficient to replace the ventilation which would normally be provided by opening windows. Therefore, the system should be capable of helping to improve thermal comfort and reduce the risks of overheating. During any hot weather, the alternative ventilation system must be capable of drawing in cooling external air; any heat exchanges used for warming incoming air during cold weather must be capable of being bypassed during hot weather. Similarly, systems that draw in air from the roof-space of the building would need a bypass to allow air from the outside to be drawn in during warm weather.

The alternative ventilation scheme must identify which rooms require a ventilation system and the acoustic specification of the proposed ventilation system demonstrating that when operated it will not cause indoor noise target levels to be exceeded. Also, the alternative ventilation system must not compromise the sound insulation properties of the building envelope. It must demonstrate how habitable rooms shall be provided with sufficient ventilation to help control thermal comfort and avoid over heating during hot weather without the need to open windows. This should include details of the air intake location and any summer bypass for any heat recovery system including a calculation for air changes/hour. A Standard Assessment Procedure (SAP) would be acceptable to demonstrate that the risk of overheating is minimised. A condition is recommended for the applicant to submit an

alternative ventilation strategy.

Tables 9 and 10 summarise the predicted internal noise levels based upon the proposed secondary and double glazing and show the internal noise levels are predicted to be within the BS8233:2014 criteria and a minimum of 3 dB below the criteria at the rear of the development. This accounts for the +3dB BS4142:2014 rating penalty.

Section 5 looks at the non-glazed façade elements outlining the required sound insulation that should be provided to protect the amenity of the future residents. Based upon typical assumptions, the façade construction is likely to provide ample levels of sound insulation. However, if the development has rooms within the roof space, the report states that the proposed development site will require additional sound insulation to achieve appropriate internal noise levels and a specification for materials and construction is given. Where the roof, is being utilised as a voided loft space with thermal insulation, this is not required. The sound insulation scheme must be installed prior to occupation and be retained thereafter.

Section 6 assesses the noise from the proposed commercial units both on the ground floor and in the adjacent buildings. These commercial units are currently vacant, and their intended use is not known. As assumption is made that they will be retail units which are not expected to generate high levels of noise and this will need to be clarified. To ensure the amenity of future residents is fully protected, it is recommended that the separating floor achieves a minimum of 10.0 dB above the criteria shown in Part E of Building regulations. This means the floors and walls must score a minimum of 53dB $D_{nT,w} + C_{tr}$ when tested for airborne sound attenuation and a specification for materials and construction is given. This figure is contrary to the West Yorkshire Planning Consultation Guidance document which requires the applicant to demonstrate that the airborne sound insulation performance of the party wall/ceiling of the development is of a minimum of 55dB $D_{nT,w} + C_{tr}$ and whilst there is only a slight difference in levels, we would ask that the upper level is met and a condition is recommended.

The findings of the report thus far are accepted and a condition to implement the proposals is recommended. However, whilst reference is made to the smoking area and beer garden of the Albert, no reference is made to any noise emissions from these or any other licensed premises in the area. Whilst monitoring was conducted over a weekend period, it is accepted that the hospitality industry has struggled due to the COVID restrictions and it is likely this will have impacted upon the acoustic climate in the evenings/weekends at the time the monitoring exercise was conducted. The country was in 'Plan B' measures at this time (<https://www.instituteforgovernment.org.uk/sites/default/files/timeline-coronavirus-lockdown-december-2021.pdf>) which required face masks and the showing of the NHS Covid pass for entry into indoor venues and this would likely have impacted licensed premises in the vicinity of the proposed development. Similarly, reference is made to the refuse area but no detail is given on any levels of noise or timings for the collections and how this may impact upon the amenity of the occupiers of the proposed development site. These points will need to be clarified and/or addressed and a condition is recommended for a further report/addendum report to address this issue.

Contaminated Land

This site has been identified on our mapping system as potentially contaminated land due to its previous use as a Printing Factory (site reference 649/9). The following documents have been submitted in support of the application -

1. Coal Risk Assessment report by Rogers Geotechnical Services Ltd dated 6th September 2021 (Ref: C2046/21/E/3145)
2. Phase 1 Desk Study Report by Avie Consulting Ltd dated July 2021 (ref: P3422)

The Coal Risk Assessment advises that the Soft Bed Coal is expected beneath the site within 30m of the site surface. A risk rating of 'moderate' has been attributed to mine gas from shallow coal workings. The report then advises that a ground gas risk assessment should be undertaken in a preliminary risk assessment (Phase I desk study). It is then concluded that due to the anticipated depth and thickness of the Soft Bed Coal Seam, any workings are likely to pose a low risk and no further action is necessary. We consider the coal risk assessment report (ref: C2046/21/E/3145) to be satisfactory.

The Phase I report (ref: P3422) advises that the site is currently occupied by two former mill buildings of 2 storey height with basements. Both buildings have been refurbished at ground floor level for retail use. There has been little change to the on-site and off-site history since the 1850's. The report considers the risk from contamination to be low, concluding that if contamination is encountered during geotechnical works, then testing should be carried out.

Having assessed the reports, there appears to be contradictory information. The Coal Risk Assessment (Ref: C2046/21/E/3145) assigns a moderate risk from ground gas whilst the in the conceptual model of the Phase I report (Section 7.4, Page 10) mine gases from shallow coal workings are not identified as a potential source. As such, we require additional information and clarification, and we reject the Phase 1 Desk Study Report by Avie Consulting Ltd dated July 2021 (ref: P3422).

Overall, as the site is on potentially contaminated land and is partly for a sensitive end-use (residential) contaminated land conditions are necessary. A revised Phase I report must be provided that assesses the potential pollutant linkage from mine gases at the proposed development. This must also include a supporting commentary. Conditions also apply for the subsequent phases of the development.

Odour

The proposed residential development is situated adjacent to several restaurant/takeaways. Offensive odours from these premises may have a negative impact on the residential amenity of the proposed development. As such, an odour assessment is necessary, to demonstrate that odours will not significantly impact the properties.

In addition, it is unclear whether the retail premises will be used for the cooking and preparation of food. Therefore, a condition is recommended for a kitchen extract scheme to cover this possibility.

Drainage at Food Premises

Due to the type of application proposed, the retail premises may be used as a food premises. So, it is possible that fats, oils, and grease enter the drainage network. Should these build up, they may block the sewerage system. Consequently, blockages can lead to the leakage of foul sewage or the internal flooding of properties or of neighbouring areas. For that reason, a condition is required in relation to the prevention of these substances in the drainage network. A footnote for food safety is also necessary.

Hours of Use

The application proposes residential properties close to the existing and proposed retail. We therefore have concerns relating to noise from customers, deliveries and dispatches that may have an adverse impact on nearby residents. A condition restricting the hours of use is therefore necessary. We recommend that the retail premises shall not be open to customers outside the hours of -

- 09:00 to 18:00 daily

and there shall be no deliveries to, or dispatches from the premises outside these hours. No deliveries shall take place on Sundays or Bank Holidays.

Construction Noise and Nuisance

The site is within a town centre location. There may be unacceptable construction nuisance if the site is incorrectly managed. All reasonable steps are taken to minimise and mitigate adverse effects from construction noise to protect nearby amenity. As the submitted documents do not include a Construction Environmental Management Plan (CEMP) a condition to that effect is required.

Recommended Conditions

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

Before construction work commences, a further noise assessment report 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 shall be provided with sufficient ventilation to help control thermal comfort and avoid over heating during hot weather without the need to open windows.

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

NC1 Implement Agreed Noise Mitigation Measures – Condition

Before the development is first brought into use all works which form part of the sound attenuation scheme as specified in the Environmental Noise Survey, Noise Break-in Assessment & Sound Insulation Scheme authored by NOVA Acoustics dated 07 January 2022 Ref 7062SA -

- a) shall be completed; and
- b) written evidence to demonstrate that the specified noise levels have been achieved shall be submitted to and approved in writing by the Local Planning Authority.

If it cannot be demonstrated that the noise levels specified in the aforementioned Noise Report have been achieved, then a further scheme shall be submitted for the written approval of the Local Planning Authority incorporating further measures to achieve those noise levels.

All works comprised within those further measures shall be completed and written evidence to demonstrate that the aforementioned noise levels have been achieved shall be submitted to and approved in writing by the Local Planning Authority before the development is first brought into use.

NC7 Ventilation of habitable rooms if windows need to be kept closed - Condition

Before construction commences, a ventilation scheme for rooms where windows need to be kept closed to prevent excessive noise levels shall be submitted to and approved in writing by the Local Planning Authority. The ventilation scheme shall provide the following information:

- Identify which rooms of which apartment referenced back to the approved Noise Assessment require a ventilation system
- The acoustic specification of the proposed ventilation system demonstrating that when operated it will not cause indoor noise target levels to be exceeded
- The ventilation scheme must demonstrate how habitable rooms of these apartments shall be provided with sufficient ventilation to help control thermal comfort and avoid over heating during hot weather without the need to open windows. This should include details of the air intake location and any summer bypass for any heat recovery system including a calculation for air changes/hour. A Standard Assessment Procedure (SAP) assessment would be acceptable to demonstrate that a risk of overheating is minimised.

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

NF7 - Footnote to accompany condition NC7

A ventilation scheme that meets the performance specification given in Part 6 of Schedule 1 of the Noise Insulation Regulations 1975 is likely to be acceptable. Acoustic trickle ventilation alone is unlikely to provide sufficient ventilation to help control thermal comfort without the need to open windows and would therefore not be acceptable.

NC5B – For use where proposed commercial and residential share a party structure (floor / ceiling or wall etc) – Condition

Before the development is brought into use, the developer shall provide written evidence to the Local Planning Authority to demonstrate that the airborne sound insulation performance of the party floors, walls and ceilings of the development is of a minimum of 55dB $D_{nT,w} + C_{tr}$. If it cannot be demonstrated that the aforementioned airborne sound insulation performance has been achieved, a scheme incorporating further measures to achieve the sound insulation performance shall be submitted for the written approval of the Local Planning Authority. All works comprised within those further measures shall be completed and written evidence to demonstrate that the aforementioned sound insulation performance level has been achieved shall be submitted to and approved in writing by the Local Planning Authority before the development is first brought into use.

CLC1 Submission of a Phase 1 Preliminary Risk Assessment Report - Condition

Groundworks shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study 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.

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

Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition (CLC1) 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, Landowners & Consultants - (v11.2) June 2020* by the Yorkshire and Lincolnshire Pollution Advisory Group

Odours Impact Assessment Report

Before construction commences, an Odour Impact Assessment Report shall be submitted in writing to the Local Planning Authority. The report shall -

- detail all of the potential source of odour in the vicinity of the application premises
- determine the potential of adverse impact on the proposed development from these potential sources of odour
- detail the necessary odour mitigation measures that are required to ensure the future occupiers of the development are not adversely affected by sources of odour in the vicinity

If odour levels predicted in the report are unacceptable, it may be necessary to refuse the application. Otherwise, it may be necessary to specify mitigation measures as conditions of consent.

OC1 Kitchen Extract Scheme - Condition

Before food cooking commences details of a kitchen extract system shall be submitted to and approved in writing by the Local Planning Authority. The details shall provide the following information:

- A risk assessment for odour which considers amount and type of food that will be cooked together with the proposed dispersion of odours and proximity of receptors likely to be affected by any cooking odours.
- Based on the risk assessment, details of the proposed methods of odour control and dispersion of any extracted odours.
- Details showing the proposed location of all the major components of the extract system.
- The noise mitigation measures that will be incorporated in the extract system and details of the likely resulting noise levels that will be caused by operation of the extract system, in particular how loud it will be at nearby noise sensitive locations.

- The proposed ongoing maintenance schedule that will be carried out to ensure that the extract system continues to effectively control odours and not cause excessive noise.

Before food cooking commences the approved extract system shall be installed and thereafter retained and maintained in accordance with the approved details.

Reason: To ensure the proposed development does not cause harmful odour pollution within either a public area or at neighbouring premises 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.

Footnote

Detailed advice is available in “*Control of Odour and Noise from Commercial Kitchen Exhaust Systems*” by EMAQ Sep 2018 which is an update of “*Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems*” by DEFRA 2005.

DR08 Pollution Prevention (for food outlets including take-aways/restaurants)

Development shall not commence until a scheme to prevent fats, oils, and grease entering the drainage network serving commercial food preparation and dish-washing areas has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to first operation of the development and shall be retained throughout the lifetime of the development.

Reason: To ensure the provision of adequate and sustainable systems of drainage are employed, in the interests of amenity, environmental well-being and to accord with Policy BE1(iv) and the NPPF.

FS1 Food Safety- Footnote

It is recommended that prior to development commencing, the applicant should contact the Food Safety Team of Environmental Services to arrange an advice visit to discuss food safety and hygiene requirements including an appropriate layout. The Food Safety team can be contacted on 01484 22100 (ask for food safety) or by email at food.safety@kirklees.gov.uk.

HUC4 Hours of Use combined Open for Customers, Deliveries and Dispatches – Condition

The use hereby permitted shall not be open to customers outside the hours of -

- 09:00 to 18:00 daily

and there shall be no deliveries to, or dispatches from the premises outside these hours. No deliveries shall take place on Sundays or Bank Holidays.

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.

CEMPC Construction Environmental Management Plan - Condition

No development shall take place, until a Construction Management Plan has been submitted to, and approved in writing by, the Local Planning Authority. The Construction Management Plan shall provide details of -

- a) timetable of all works;
- b) vehicle sizes and routes, times of vehicle movements, identify the location of any HGV waiting areas and include details of the management of said areas;
- c) the parking of vehicles of site operatives and visitors;
- d) details and location of signage;
- e) loading and unloading of plant and materials;
- f) storage of plant and materials used in constructing the development;
- g) measures to be taken to minimise the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site, including the provision of adequate wheel washing facilities within the site;
- h) measures to control and monitor the emission of dust and dirt during construction;
- i) a Site Waste Management Plan, detailing recycling/disposing of waste resulting from demolition and construction works;
- j) mitigation of noise and vibration arising from all construction related activities to (these details should also include suitable restrictions on the hours of working on the site including times of deliveries);
- k) artificial lighting used in connection with all construction related activities and security of the construction site;
- l) site manager and resident liaison officer contact details (including their remit and responsibilities); and
- m) details of engagement with local residents and occupants or their representatives.

The development shall be carried out strictly in accordance with the approved CEMP and no change there from shall take place without the prior written consent of the Local Planning Authority.

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.