Consultation Response from: KC Environmental Health (Pollution & Noise Control)		
2021/94280 - Land at Lady Ann Road, Soothill, Batley, WF17 0PY		
Erection of 67 dwellings with associated works		
Responding Date: **10th February 2022**	**Responding Officer:** **Mohammed Nasim** **Natalie Heaney**	**Responding Ref:** **WK/202141213**

The site is a large plot of land situated between Lady Ann Road to the east and Primrose Hill to the west. There is an industrial area to the east off Lady Ann Road and beyond Primrose hill, a railway line. This application is for a residential development of 67 dwellings, ranging in size from three to five bedrooms, with associated car parking and landscaping works.

Noise

The applicant has submitted a Background Noise Assessment authored by Clover Acoustics dated 16 June 2021 Ref 3751-R2. The report uses data taken during an assessment on the 7th of June 2017 submitted under previous applications. Based upon the time elapsed since the monitoring exercise was undertaken, noise levels may have changed over the proceeding years and a more current report will be required. A condition is therefore recommended.

Without prejudice, based upon the findings of the submitted report, attenuation measures may be required and if so, it is our position that acoustic trickle ventilation alone is unlikely to provide sufficient ventilation i.e. purge ventilation, to help control thermal comfort without the need to open windows and would therefore not be acceptable. It is unacceptable that building occupiers will be faced with the option of having to be exposed to either excessive noise or excessive heat and this is the situation that Kirklees requires to be addressed through the provision of an alternative ventilation system when windows need to be kept closed for noise mitigation reasons.

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 therefore recommended.

Contaminated Land
Our records indicate the site is potentially contaminated due to its former use (site ref: 1/6 and 82/5).

A combined Phase 1 Geoenvironmental Risk Assessment and Phase 2 Ground Investigation by Michael D Joyce Associates dated September 2016 (ref: 3663) has been submitted in support of the application. The reports include geotechnical information, which is outside the remit of Environmental Health, this consultation response therefore only relates to the land contamination aspects of the report.

Environmental Health have previously assessed these reports under a separate application (2017/91851). The Phase 1 part of the report identifies that the site has been previously used for agriculture and allotments. It identifies some areas of fly-tipped material and some pieces of asbestos cement sheeting on the site. It also identifies the site is in an area where basic radon protection is required for buildings.

The Phase 2 aspect of the report details the findings from a field investigation in August 2016. A total of 29 trial pits were dug across the site. Sampling and analysis of 5 topsoil and 12 made ground samples was undertaken. Ground gas testing carried out. The topsoil analysis found no contaminants and the report considers the topsoil is likely to be suitable for reuse. The made ground analysis found elevated levels of arsenic, lead and amosite, so should only be reused under areas of hardstanding. The ground gas monitoring found no methane, peak carbon dioxide concentrations of 1.2%.

Having read the reports and assessed the application, we have no objections to the development subject to full contaminated land conditions. Full contaminated land conditions are necessary as the submitted information is incomplete and unclear. In particular:

1. The Phase I aspect of the report suggests previous fly-tipping activities. The report submitted in now five years old. It is plausible the condition of the site has changed since any historic investigations (e.g. development, fly tipping, burning of wastes etc). Any contaminated land information received must provide an accurate assessment of the current contaminated land risks at the site in line with Land Contamination Risk Management Guidance. At minimum, an addendum is required with an updated site walkover and updated conceptual site model.

2. No ground gas data sheets have been provided in the submitted report so it is unclear what parameters were measured in conjunction with the ground gas parameters that may influence the observed concentrations (e.g. atmospheric pressure and groundwater levels etc). It is also unclear what the monitoring period and frequency was. CIRIA C665 guidance details how to present gas monitoring data. Any gas data presented must be presented following best practice guidance and include essential information to allow for accurate assessment of the ground gas regime. Ultimately, the ground gas regime at the site must be characterised in line with CIRIA C665 and BS8485 guidance and be able to confirm to a high degree of confidence, what

characteristic situation the site falls into and update the Phase II as appropriate. We are unable to confirm the validity of the report conclusions without this information.

Overall, the information submitted with the application fails to accurately characterise the sites. So, it is unclear whether there is the potential for contamination to pose a risk to the development that has not been considered. Moreover, the proposals are classed as a major development. For that reason, full contaminated land conditions are necessary.

Electric Vehicle Charging Points
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 Works
There is potential for the proposed development of the site to lead to noise/vibration, dust or other emissions which may affect the amenity of the occupiers of neighbouring properties. A condition is therefore recommended for a Construction Environmental Management Plan to be submitted.

Recommended Conditions

NC9 Noise Assessment Report and Mitigation Scheme - Condition
Before construction work commences, a report specifying the measures to be taken to protect the development from noise from all significant noise sources that are likely to affect the proposed development including road traffic, industrial/commercial premises etc. shall be submitted to and approved in writing by the Local Planning Authority. The report shall -

a) Determine the existing noise climate
b) Predict the noise climate in living rooms and gardens (daytime), bedrooms (night-time) and other habitable rooms of the development
c) Detail the proposed attenuation/design necessary to protect the amenity of the occupants of the new residences (including alternative ventilation if required).

The development shall not be occupied until all works specified in the approved report have been carried out in full and such works shall be thereafter retained.

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 plots referenced back to the 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 plots 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.

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 (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 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

EVC1 Electric Vehicle Charging Points - Condition
Before the 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 -

- 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

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.
- 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.

CEMPC Construction Environmental Management Plan - Condition

Prior to 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.