

Consultation Response from: KC Environmental Health (Pollution & Noise Control)
2021/94280 - land at, Lady Ann Road, Soothill, Batley, WF17 0PY
Erection of 65 dwellings with associated works
Date Responded:
13th January 2023
Responding Officer:
NH & MN
Responding Ref:
WK/202242052

Please note that some of our recommended conditions have changed since our previous response dated 10th February 2022.

Noise

In our previous response, we commented that the submitted report used data taken during an assessment on the 7th of June 2017. We stated that based upon the time elapsed since the monitoring exercise was undertaken, noise levels may have changed and a more current report would be required. The applicant has resubmitted the report which has been amended due to an updated layout but has failed to submit the updated data as requested. The report is therefore rejected and a condition is recommended for a noise assessment to be submitted.

Contaminated Land

We note the revised layout to the site. New information has also been submitted as part of the application.

Further to our previous response dated 10th February 2022, a combined Phase 1 Geoenvironmental Risk Assessment and Phase 2 Ground Investigation by Michael D Joyce Associates dated November 2022 (ref: 3663A Revision 1) 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.

The report details that the site has been inspected in 2016 and 2022. Notably from the walkover, fly tipped material was identified in the 'west and centre of the site' that is described as 'typically household waste.' The same was noted in the northeast and northwest corner of the site. No asbestos was identified during the walkover but the report states that 'it is possible that it may exist within some of the fly tipped material.' Later the report states 'pieces of asbestos cement sheeting can be seen scattered across the site in places' The appraisal of historic maps presented in the report suggests that the site has previously been used for agriculture and allotments. The surroundings are described as industrial and residential.

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 the presence of amosite. The ground gas monitoring reportedly found no methane, peak carbon dioxide concentrations of 1.2%.

Remedial recommendations are provided in Section 13 of the report. This includes the removal of the asbestos sheeting and a site strip to separate topsoil from the made ground. It

is unclear at this stage whether the topsoil on site is suitable for further use and the report advises that 'further testing of the topsoil stockpile' will be required to confirm that it is free of asbestos. The report continues to recommend that a 600mm clean cover system is adopted in garden areas where made ground forms part of the subsoils. Details relating to imported material screening criteria are also provided and the report confirms that verification of any placed soil will be confirmed by depth testing in-site, topographical surveys and soil chemical analysis.

Having read the reports and assessed the application. The revised report has included new walkover information however we request clarification on the following points:

1. Despite having raised this in our previous response, no ground gas data sheets have yet been provided 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.
2. The report recommends the installation of combined gas and groundwater monitoring standpipes (13.12.1). Further information regarding this additional monitoring is required.

We also note the remediation recommendations provided in the revised report, however these do not appear to apply to public open space on site. From the submitted plans we understand the total public open space to comprise of 12,743m². Paragraph 183b of the NPPF states that planning policies and decisions should ensure that after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990. So, essentially, we want to ensure that all soft-landscaping areas within the planning boundary are suitable for its intended end-use. Any future remediation strategy must confirm the proposals for gardens *and* public open space within the development site.

Our previously recommended condition CLC1 (Phase I report) can be removed as the new walkover information has been provided. However, we still have concerns with the phase 2 aspect of the investigation. Notwithstanding, we have no objections to the development subject to the necessary contaminated land conditions being applied to any consent granted.

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 and/or rail traffic, commercial/industrial 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 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.

Reason: To protect the amenity of occupiers of the proposed development from noise or disturbance from nearby noise generating premises 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.

NF4 Competent Person - Footnote

All noise assessments should be carried out by a competent person. The applicant may wish to contact the Association of Noise Consultants <http://www.association-of-noise-consultants.co.uk/> (020 8253 4518) or the Institute of Acoustics <http://www.ioa.org.uk> (0300 999 9675) for a list of members.

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 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 the requirements of the current West Yorkshire Low Emission Strategy (WYLES) document. The approved dedicated facilities for charging electric vehicles shall be installed prior to

occupation and retained for use 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, Chapters 2, 9 and 15 of the National Planning Policy Framework and the West Yorkshire Low Emission Strategy (WYLES).

EVF1 Electric Vehicle Charging Points – Footnote

- The electrical supply of the final installation should allow the charging equipment to operate at full rated capacity and the installation must comply with all applicable electrical requirements in force at the time of installation.
- The conditions relate to Planning Control only. Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information in relation to Approved Document S.

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.