

**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:	2022/44/91685/W
Site Address:	adj, 71, Quarmby Road, Quarmby, Huddersfield, HD3 4EA
Description:	Discharge of conditions 6 - 10 (contamination and remediation) on previous permission no. 2019/91038 for demolition of existing garages and erection of one detached dwelling
Recommending Officer:	William Simcock

DECISION – Condition 6 approved discharge, Conditions 7-10 refused to discharge

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

Teresa Harlow

AUTHORISED OFFICER

Date: 27-Jun-2022

Officer Report 2022/91685
71 Quarmby Road, Quarmby HD3 4EA

This application relates to previous permission 2019/91038, for demolition of existing garages and erection of one detached dwelling.

The application seeks to discharge conditions (6-10) as follows:

6. Development 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) has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the safety of the development, in accordance with Policy LP53 of the Kirklees Local Plan, paragraphs 178 and 179 of the National Planning Policy Framework. This information is required pre-commencement to ensure that any contamination hazards are identified before building works commence on site.

7. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition 6, development shall not commence until a Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the safety of the development, in accordance with Policy LP53 of the Kirklees Local Plan, paragraphs 178 and 179 of the National Planning Policy Framework.

8. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 7, development shall not commence until a Remediation Strategy 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 safety of the development, in accordance with Policy LP53 of the Kirklees Local Plan, paragraphs 178 and 179 of the National Planning Policy Framework.

9. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 8. 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 works on site (save for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Unless otherwise approved in writing with the Local Planning Authority, 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 safety of the development, in accordance with Policy LP53 of the Kirklees Local Plan, paragraphs 178 and 179 of the National Planning Policy Framework.

10. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. Unless otherwise approved in writing with the Local Planning Authority, no part of the site shall be brought into use until such time as the remediation measures for the whole site have been completed 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 safety of the development, in accordance with Policy LP53 of the Kirklees Local Plan, paragraphs 178 and 179 of the National Planning Policy Framework.

Consultations

Environmental Services – detailed response concluding that whilst condition 6 could be discharged, there were remaining concerns with details regarding conditions 7-10. This is set out in the following assessment.

Assessment

Condition 6 – Phase 1 Risk Assessment

The following has been submitted:

- Phase I Desktop Study and Preliminary Risk Assessment Report by GeoEnviro Solutions Ltd, dated January 2022 (ref: GES 2112-21 PI Report)

It is understood that an intrusive site investigation has already been undertaken. The report is considered satisfactory for the purposes of Condition (6) and it is recommended that it can be discharged.

Condition 7- Phase II Site Investigation

The following has been submitted:

- Phase II Site Investigation and Updated Risk Assessment by GeoEnviro Solutions Ltd, dated March 2022 (ref: GES 2112-21 PII Report)

The report concludes that general testing undertaken across the site shows that contamination is not likely across the site. It is reiterated that the hardstanding limits potential pollutant pathways at TP03, however, should the site be re-developed at any stage, the issue of lead contamination within the site soils should be re-evaluated in respect to any new development profile.

Finally, the report states that as less than 1 metre of made ground underlies the site, and on further review of the desk study, that there is insufficient thickness of made ground to represent a risk. A radon membrane is believed to be installed and the report adds that when referring to RB17, the guidance suggests that the presence of a radon membrane will provide sufficient protection against other ground gases, should any be present.

Officers do not accept the Phase II Site Investigation and Updated Risk Assessment, for the following reasons.

No ground gas monitoring has been offered and the justification for a lack of monitoring is unclear. This appears to relate to ground gases generated from made ground on-site, not ground gases from off-site sources associated with made ground and landfill sites. Regarding RB17 guidance and the radon barrier, the guidance is clear that gas monitoring on low-risk sites where small volumes of gas are likely to be present is not always necessary. However, with the proximity of a historic landfill <50m away from the site and an identified moderate/low risk of a potential pollutant linkage, this site is not considered to be low-risk. A combination of gas protection elements should be installed if a ground gas issue has been identified. Yet without establishing the ground gas regime, it would be unclear what level of protection (if any) is required. Therefore, further clarification or information is required.

In addition, we have concerns that there is insufficient hardstanding in the area at TP03. Therefore, the applicant must clarify the surface cover. Where possible, additional photographs should be provided as from the appended photographs in the current report, there does not appear to be sufficient hardstanding to break the pollutant linkage identified.

For these reasons, Condition 7 cannot be discharged and must remain until further notice.

Condition 8: - Remediation Strategy

In the absence of an approved Phase II report, it is unclear how officers can consider Condition 8 at this stage as it has not been established whether the site has been correctly characterised, and if remediation is necessary.

Therefore, we cannot consider the discharge of Condition 8 at this time and recommend that Condition 8 remains until further notice.

Condition 9-10: Development to be carried out in accordance with the Remediation Strategy and Validation

Since no remediation strategy has been submitted, nor has the absence of one been clearly justified, conditions 9-10 cannot be discharged.

Decision notice text

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In addition, there are concerns that there is insufficient hardstanding in the area at TP03 to break the pollutant linkage identified. Therefore, the applicant must clarify the surface cover. Where possible, additional photographs should be provided as from the appended photographs in the current report.

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Report Dated: 24-Jun-2022