

Consultation Response from: KC Environmental Health (Pollution & Noise Control)
2022/93154 Land at, Penistone Road, Fenay Bridge, Huddersfield, HD8 0AW
Erection of 68 dwellings with associated access, parking, open space, landscaping and infrastructure works (including installation of surface water attenuation tank)

Date Responded: 05 December 2022	Responding Officer: RM NH MN	Responding Ref: WK/202237898
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The application seeks permission for 68 dwellings on land off Penistone Road in Fenay Bridge. The site is allocated for residential housing within the Kirklees Local Plan (ref: HS1) and has existing planning permission for 68 dwellings (Planning Reference 2020/90725). The latest application is for the same number of dwellings and includes design improvements. In addition, the planning boundary includes land to the West of Penistone Road to accommodate drainage mitigation.

We have reviewed the application and supporting information and make the following comments and recommendations.

Air Quality

An Air Quality Assessment (ref: PRO-078170) (dated: September 20220) by Stroma Built Environment has been submitted in support of the application. The report details the impact that the development will have on existing air quality, due to changes in traffic flows and how this will impact existing and future sensitive receptors during the construction and operational phases. It uses techniques detailed in national and local guidance, such as Local Air Quality Management Technical Guidance (LAQM. TG16), the Design Manual for Roads and Bridges (DMRB).

Construction Phase

For the construction phase a qualitative assessment of fugitive dust emissions was undertaken in accordance with the Institute of Air Quality Management Guidance on the Assessment of Dust Demolition and Construction. This involved a risk assessment to identify all potential sources of dust during construction and the risk of impact at receptor locations. From this the potential significance impact of dust emissions associated with the development without mitigation measures was determined. The report concludes that there is the potential for fugitive dust emissions, from, earthworks, construction and track-out. The risk has been determined as low to medium and “the likelihood of nuisance dust episodes occurring at those receptors adjacent to the development are considered low to negligible”. The report goes on to say that the impact of dust emissions can be controlled through the implementation of best practice mitigation measures, and these are listed in Table 17 pages 20 and 21 of the report.

Operational Phase

For the operational phase, detailed dispersion modelling was undertaken using ADMS-Roads (version 5.0.1). The model was used to predict changes in concentrations of NO₂ and PM₁₀ at 8 existing sensitive receptor locations, and 12 future receptor locations within the development site due to traffic emissions caused by the development. Data from the latest Defra vehicle Emission Factors Toolkit (EFT version 11), monitored data supplied by Kirklees

Council, and traffic data provided by Andrew Moseley Associates the transport consultants for the project were also used. The model outputs were based on three scenarios as follows:

- Scenario 1 – 2019 baseline/ model verification year
- Scenario 2 – 2025 opening year (future baseline) without the development
- Scenario 3 – 2025 opening year (future baseline) with the development

The report concludes that for the operational phase the predicted annual mean NO₂, and PM₁₀ concentrations will be below the current national air quality objectives for both the “without development” and “with development” scenarios at all sensitive receptor locations across the development site. Therefore, in accordance with the Environmental Pollution UK (EPUK) and Institute of Air Quality Management (IAQM) guidance the overall future impact of the development on modelled receptors is negligible.

Comment

Whilst we agree with the approach and methodology of the air quality assessment, we make the following comments:

- There is no mention in the report of other local plan developments within the area, and it is unclear if the future traffic data includes other committed developments and the cumulative impact this will have on air quality. This requires clarification.
- No plan has been provided showing the location of the 8 existing receptors in relation to the development site.
- The best practice mitigation measures that are recommended for the construction phase, are to be incorporated into a Construction Environmental Management Plan (CEMP) in the form of a site-specific Dust Management Plan.

Therefore, until further clarification has been provided regarding our concerns, we do not accept the air quality assessment by Stroma Built Environment. Therefore, it will be necessary for a condition for a supplementary Air Quality Assessment.

Noise

The applicant has submitted a Planning Noise Assessment authored by Stroma Built Environment Ltd. (SBE) dated 11 July 2022 Ref OPP-085016 AC 1v3.

A baseline noise survey was conducted at the site between Friday the 16th and Monday the 19th of November 2018 to assess prevailing noise levels. Whilst we would expect more up to date measurements, it is accepted that the acoustic environment is unlikely to have changed to significantly affect the results. Long term noise monitoring was undertaken approximately 40m from the closest properties on Whitegates Grove supplemented with additional short term noise measurements on the morning and afternoon of Friday the 16th of November at the north west site boundary, approximately 10m from Penistone Road. These are shown in figure 1 with the results shown in table 2. The dominant source was road traffic noise and the levels are discussed in paras 4.4 and 4.5.

Based upon the measured figures, noise modelling has been conducted and table 5 shows a colour coded level of façade attenuation with appropriate ventilators required to ensure internal levels meet with the requirements of BS8233 for both daytime and night time.

The external amenity areas will require mitigation and para 4.25 states dwellings located closest to the western site boundary with garden areas not screened by buildings will be exposed to higher amenity noise levels. To assess noise levels in gardens of the worst affected properties (Plots 1-4, 17, 36-38 and Plots 41-42), para 4.26 makes reference to a minimum 2m high fence and a mass of $\geq 10 \text{ kg/m}^2$ which will afford some attenuation but these amenity areas will exceed the upper limit of 55dB. BS8233 recognises that these guideline values are not achievable in all circumstances where development might be deemed to be desirable.

There is some uncertainty within the report on the site layout, the ventilation strategy and the fixed mechanical plant. We also have concerns about the high levels within the external amenity space. A condition is recommended for a further/addendum report to be submitted addressing these uncertainties and consideration of a higher specification acoustic barrier.

Contaminated Land

The proposals are for the erection of 68 dwellings with associated works. Therefore, we consider this to be a major application. A report titled 'Land east of Penistone Road, Fenay Bridge, Huddersfield Summary Report on Previous Site Investigation' by ECUS Ltd dated January 2019 (ref: MM/12358/190107/P). The report includes 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 mentions a previous report 'Land at Fenay Bridge: Combined Phase I and Phase II Ground Risk Appraisal' by WSP dated October 2017 (Ref: 70035780-001). This is included in the appended material. The WSP report concerns a wider area. Plot D which is referred to is the relevant area for the application. Although the site has yet to be developed, the reports advise that there may be risks from shallow and deep coal mining impacting the site. However, according to an intrusive site investigation that included ground gas monitoring, soil sample analysis and statistical analysis, it was concluded that risk to human health from soil contamination is considered to be generally low. Additionally, no coal workings or coal was identified during the investigation undertaken by WSP. The reports therefore conclude that there is no need for remediation because the site is suitable for the intended use.

We have reviewed the report and consider the principle of development for housing is acceptable, however it will be necessary to update the preliminary risk assessment and conceptual site model to incorporate any changes in the environment and updated guidance since the report was produced as the summary report is dated 2019 and refers to a ground investigation undertaken in 2017.

Electric Vehicle Charging Points (EVCP)

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 Environmental Management Plan

Because of the large scale of the development and the proximity of residential properties to the site boundary there is a significant potential for loss of amenity to the occupiers of nearby

properties from noise, vibration, dust and artificial light from the construction phase of the development. Therefore, it is necessary for a condition requiring a Construction Environmental Management Plan (CEMP) that shows what will be done to effectively control these issues. Other consultees may require additional matters to be included in a CEMP.

Recommendations

AQIAC 1 Supplementary Air Quality Impact Assessment – Impact of new development on the area- Condition

Before the application is determined a supplementary Air Quality Impact Assessment shall be submitted to and approved in writing by the Local Planning Authority. The assessment shall:

- Include the impact on air quality of other committed developments in the area.
- Include a plan showing the location of the 8 existing sensitive receptors in relation to the development site.

Reason: For promoting sustainable development and transport and conserving the natural environment in accordance with parts 2, 9 & 15 of the NPPF and LP20, LP24, LP47 of the Local Plan.

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 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.

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 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 that the air intake is located away from the sources of noise and/or poor air quality.

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

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.

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.

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. Any other necessary consent must be obtained from the appropriate authority. If the applicant commences work without discharging conditions, they will be at risk of enforcement action and invalidating the permission if the planning condition is a pre commencement condition.

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. 183 and 184 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. 183 and 184 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. 183 and 184 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. 183 and 184 of the National Planning Policy Framework

CLC5 Submission of Verification Report - Condition

Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Verification 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 Verification 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. 183 and 184 of the National Planning Policy Framework

CLC7 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 2021. 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.

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. Any other necessary consent must be obtained from the appropriate authority. If the applicant commences work without discharging conditions, they will be at risk of enforcement action and invalidating the permission if the planning condition is a pre commencement condition.

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, which should include measures to monitor and record the emissions of dust during construction, this must be incorporated into a site-specific Dust Management Plan as specified in the Air Quality Assessment by Stroma Built Environment (ref: PRO-078170) (dated: September 2020).
- Artificial lighting used in connection with all construction related activities and security of the construction site.

A communications plan detailing the responsible person, their contact details and how this will be communicated to local residents and the Local Authority must be included.

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 LP52 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.

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

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

- 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 and the installation must comply with all applicable electrical requirements in force at the time of installation.