

**Consultation Response from: KC Environmental Health (Pollution & Noise Control)****2022/93563 New North Road, Heckmondwike, WF16 9DW****Outline application for erection of residential development****Date Responded:**  
**31<sup>st</sup> January 2023****Responding Officer:**  
**RM****Responding Ref:**  
**WK/202300827**

The proposed development is for 9 residential dwellings with associated landscaping and car parking. We have reviewed the application and supporting information and make the following comments and recommendations.

**Contaminated Land**

The site of the proposed development is on land that has been identified as being potentially contaminated due to its former use (our site ref: 155/5 Ings Mill/ Perseverance Foundry).

A Coal Mining Risk Assessment by Michael D Joyce Associates (MDJA) LLP (ref: 4162) (dated: December 2022) has been submitted in support of the application. The report indicates that the Wheatley Lime coal seam is estimated to lie 12m – 15 m below site, however there is no evidence of unrecorded shallow coal workings, and the site is located just outside a development high risk area. The report goes on to say that there is a mine shaft immediately east of the site and that there is a former mill pond below the present hardstanding. There are two further mine shafts just outside the site boundary which require further investigation, and it is recommended that surface strip is undertaken to plots 8 & 9.

Due to the potential for ground contamination, as a minimum a preliminary site investigation must be undertaken and therefore, we recommend the necessary contaminated land conditions.

**Noise**

The proposed development is near to a busy road and existing commercial uses, noise from which is likely to have an adverse impact on future occupiers of the site. Therefore, it will be necessary for a noise impact assessment to be submitted before determination. The assessment should determine the existing noise climate taking all likely noise sources into consideration and then detail how this will affect the proposed development. It should also detail any noise mitigation measures that will be required so that satisfactory sound levels will be achieved both indoors and at any outdoor amenity areas at the development. If windows need to be kept closed to achieve satisfactory indoor sound levels, then the mitigation measures will also need to include specific details of the alternative ventilation that will be provided as a substitute to opening windows.

**Loss of amenity caused by the construction of the development**

Because of the 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 will be necessary for a condition requiring a Construction Environmental Management Plan (CEMP).

**Electric Vehicle Charging Points (EVCP)**

The proposal includes the provision of 20 car parking spaces. 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.

### **Recommendations**

**Note for the Planner:** A Noise Impact Assessment will be required before determination.

#### **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
- 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 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.