

Consultation Response from: KC Environmental Health (Pollution & Noise Control)		
2023/91116 - Land off, Primrose Lane, Hightown, Liversedge, WF15		
Erection of 67 dwellings		
Date Responded: 7th August 2023	Responding Officer: NH	Responding Ref: WK/202321391
<p>Contaminated Land</p> <p>Further to our comments dated 5th June 2023, the following has been received in support of the application:</p> <ul style="list-style-type: none"> • An Email by Savills, dated 27th June 2023 • A Shallow Coal Mining Investigation Report by Wardell Armstrong Dated 16th May 2023 (Ref: Ld10488) <p>The documents include geotechnical information, which is outside the remit of Environmental Health, this consultation response therefore only relates to the land contamination aspects of the documents.</p> <p>The email from Savills suggests additional work has been undertaken in the Northern Area of the site. They summarise the work stating:</p> <p><i>'The additional investigations for the woodland area included 5 No. windowless sample boreholes to depths of between 3.00m and 5.45m. Made Ground was identified to depths of between 1.3m and 4.5m and typically comprised colliery spoil underlain by firm to stiff Clay (likely residually weathered bedrock of the Pennine Lower Coal Measures). 3 No. samples were obtained and tested for a suite of potential contaminants appropriate to the sites former use. A single marginal exceedance of beryllium was recorded at WS05 at a depth of 0.80m but no other exceedances of the residential with plant uptake screening criteria were identified.'</i></p> <p>The Wardell Armstrong investigation, as detailed in the report provided, included 17 trial pits and 5 trenches to confirm and characterise the presence of made ground and mine shafts. In addition, nine window sample boreholes were drilled to provide information for data on the Yorkshire Water main route. A total of 28 soil samples were retrieved and sent for chemical analysis. Finally, five 50mm diameter gas and groundwater monitoring wells were placed within boreholes (BH02, BH04, BH05) and windowless samples (WS05, WS07). However, no ground gas or groundwater monitoring data appears to have been presented in the report.</p> <p>Made ground and topsoil was identified across the site. Several soil sample analysis results from multiple locations exhibited concentrations greater than the generic assessment criteria. Chromium (Cr(III)) ranged from <0.9 to 79.4 mg/kg, arsenic from 3.95 to 77.2 mg/kg, beryllium from 0.549 to 2.06 mg/kg, and lead from 14.4 to 263 mg/kg - each of these exceeded the assessment criteria for residential use with plant uptake. However, all other analysed parameters either remained below their corresponding residential with plant uptake screening values or were below their respective limit of detection. Chrysotile asbestos was detected in three samples, with the asbestos quantification analysis revealing a confirmed concentration</p>		

of 0.0023% w/w in the sample from Trial Trench No.3, at a depth of 2.50 meters. The other two samples were below the limit of detection.

Coal seams were discovered in a total of six exploratory holes, specifically BH01, BH02, BH03, BH05, TP06, and TP08. The identified coal seams are believed to include the Top Lousey and Trub, with the potential presence of additional thinner, unnamed coal seams and carbonaceous materials such as dark brown and very dark brown shaley mudstone and siltstone. Indications of possible coal mine workings, mine entries and outcropping coal were also identified.

Notably, the report states that '*no detailed contamination or environmental assessments have been undertaken as would be required by a typical Phase 2 Geoenvironmental Report*' and the interpretations are '*based on a limited number of investigation points and access was restricted within the woodland area within the northernmost section of the site.*'

We acknowledge the assessment of the Northern Area of the site, as detailed in the Wardell Armstrong report. However, it is important to note that this study overlooks significant details such as the previously provided MDJA report. These limitations are touched on in the Wardell Armstrong report. Furthermore, the Wardell Armstrong report does not adequately respond to the concerns highlighted in our previous feedback concerning the MDJA investigation. Given the sensitivity of the proposed end-use and the coal legacy at this site, we require much more detailed information to characterise the site fully and confirm whether the site can be made suitable for the intended use.

Paragraph 183a of the National Planning Policy Framework (NPPF) stipulates that planning policies and decisions should ensure that a site is suitable for its proposed use taking account of contamination, proposed remediation, and potential impacts from that remediation. Paragraph 183c of the NPPF states that adequate site investigation information, prepared by a competent person, is available to inform these assessments. Lastly, as progress is made through the stages of the Land Contamination Risk Management (LCRM) guidance, the LPA will need a high level of certainty to ensure compliance and that risks have been satisfactorily assessed.

Recommendations

We consider that the supporting information provided to date fails to wholly meet NPPF guidelines and some of the information provided has failed to meet the necessary requirements for contaminated reports as detailed in the LCRM guidance. Without further information, we are unable to fully evaluate the suitability of the site for the intended development and therefore require additional information **before the application is determined.**

The following conditions are recommended for other aspects of the application. Please note our recommendations are not final and are subject to satisfactory contaminated land information being submitted and approved before the application is determined.

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, in accordance with Table 7-1 page 23 of the Air Quality Assessment by SLR (Ref: 410.064882.00001) (dated: November 2022)
- 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.