

**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:	2023/44/92180/W
Site Address:	Land Off, Manchester Road, Huddersfield, HD1 3JA
Description:	Discharge of condition 15 (Validation Report) of previous permission 2016/91026 for erection of 168 student studios with communal areas
Recommending Officer:	Ellie Thornhill

DECISION – Discharge of Conditions- Refused

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

David Wordsworth

AUTHORISED OFFICER

Date: 02-Nov-2023

Officer report

Application: 2023/92180

Site: Land Off, Manchester Road, Huddersfield, HD1 3JA

Proposal: Discharge of condition 15 (Validation Report) of previous permission 2016/91026 for erection of 168 student studios with communal areas

Condition 15: Validation report

15. 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 agreed 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 site is fit to receive the new development in accordance with Policy G6 of the Kirklees Unitary Development Plan.

Assessment

This application covers Cormorant House (Block A) and the immediate soft-landscaped areas around the perimeter of the building.

The following document has been submitted in support of condition 15:

- A Remediation Validation Report authored by Evolve Geo-Environmental Limited, dated 11th October 2023 (ref: EGE-23-09-18-01)

The report includes geotechnical information which is outside of the remit of Environmental Health and therefore, the assessment of this condition is in relation to land contamination.

On October 3rd, 2023, a topsoil validation investigation was conducted involving the excavation of four trial pits to a depth of 0.40m below ground level. Photographic documentation was made, and samples were collected for chemical analysis. The document outlines the findings of the investigation to confirm whether the site is suitable for the intended end-use.

The report describes that all four trial pits comprised of varying levels of soft dark brown to dark grey gravelly sandy clay, between 0.10m thickness and 0.40m thickness. Beneath which, the four trial pits contaminated crushed concrete gravel (HDTP101), concrete (HDTP102), sandy slate gravel (HDTP103) and a blue geotextile membrane and beige sandy sandstone gravel (HDTP104); the depths were unproven, but the report considers these as no-dig layers. Significant visual and olfactory evidence of contamination was not identified during the soil sampling exercise.

Chemical analysis of the soil samples showed slightly elevated levels of certain substances (benzo(a)pyrene, benzo(b)fluoranthene, and dibenzo(a,h)anthracene) in samples from pits HDTP101, HDTP102, and HDTP104. Considering a 1% Soil Organic Matter, these concentrations exceeded the chosen assessment criteria. However, when adjusted for a higher Soil Organic Matter (4.1%), HDTP101 and HDTP102 fell below the acceptable levels, while HDTP104 remained above the residential criteria even without plant uptake. The report added that HDTP104 is inaccessible to site users due to steel fencing and heavy vegetation, preventing entry and mitigating exposure to the underlying soils.

Therefore, having read the report, Environmental Health Officers require clarification on the below:

- Only 1 trial pit has been done in for Area A. It is unclear how this can demonstrate the absence of contamination, to a high degree of confidence.
- Appendix 2 is supposed to contain the delivery notes of imported material, but this has not been provided. Moreover, no samples have been provided to confirm the suitability of any imported material. This does not appear to be in accordance with best practice guidance.
- The material identified in all four trial pits is generally gravelly sandy clay soils (made ground) which appears to be the same as the generally ground conditions proven in the Phase 2 investigation.
- The depth of topsoil does not appear to be in accordance with the agreed strategy.

In accordance with Paragraph 183(a) and 183(b) of the National Planning Policy Framework planning policies and decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation). Also, 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. As per Paragraph 184 of the National Planning Policy Framework, where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

In summary, there is insufficient information to confirm whether there has been successful remediation at this site. Therefore, in order to satisfy condition 15, additional information is required in order to confirm the absence of significant pollutant linkages.

For these reasons, condition 15 must remain until further notice.

Decision notice text

Condition 15: Validation report

Pursuant to condition 15 you have submitted:

- A Remediation Validation Report authored by Evolve Geo-Environmental Limited, dated 11th October 2023 (ref: EGE-23-09-18-01)

Unfortunately, Officers require clarification on the points below in order to confirm the absence of significant pollutant linkages on the site:

- Only 1 trial pit has been done in for Area A. It is unclear how this can demonstrate the absence of contamination, to a high degree a confidence.
- Appendix 2 is supposed to contain the delivery notes of imported material, but this has not been provided. Moreover, no samples have been provided to confirm the suitability of any imported material. This does not appear to be in accordance with best practice guidance.
- The material identified in all four trial pits is generally gravelly sandy clay soils (made ground) which appears to be the same as the generally ground conditions proven in the Phase 2 investigation.
- The depth of topsoil does not appear to be in accordance with the agreed strategy.

As such, condition 15 cannot be discharged and must remain until further notice.

Dated: 02/11/2023