

**Consultation Response from: KC Environmental Health (Pollution & Noise Control)**
**2023/92200 - Former Petrol Station, North Road, Kirkburton, Huddersfield, HD8 0RL**
**Erection of single storey retail unit with associated parking area and modification to existing site access and egress (within a Conservation Area)**
**Date Responded:**  
**3<sup>rd</sup> October 2023**
**Responding Officer:**  
**NH**
**Responding Ref:**  
**WK/202328110**
**Noise**

There is limited information in the supporting information to confirm the presence of any fixed plant and equipment associated with the new building, however it is understood this will be to the rear of the building. In the absence of this information and given the proximity to nearby noise-sensitive receptors, a condition is necessary to secure a noise impact assessment.

We note that no hours of use have been proposed by the applicant. In the absence of proposed hours of opening we recommend the following condition to protect nearby existing residential amenity.

**Contaminated Land**

Our records indicate that the proposed development site is on an area identified as potentially contaminated land use due to its historical land use/s (site reference: 80/16 and 81/16). A Phase I Desk Study, dated 24<sup>th</sup> May 2022 (ref: 82426-01) and a Phase II Ground Investigation Report, dated 2<sup>nd</sup> August 2022 (ref: 82426-02) both authored by PRP Environmental, have been received in support of the application. The document includes geotechnical information, which is outside the remit of Environmental Health. Our consultation response solely addresses the land contamination aspects of the report.

The Phase I report assesses the former and current land uses and identified several potential on-site and off-site sources of contamination. On-site these include but are not limited to a deep made ground associated with a spoil heap and refuse tip, a petrol station and tanks. Three known pollution incidents have been reported on site however the document adds ‘*these are either no or minor impact on land water and air. These are unlikely to have affected the underlying soils, due to the concrete slab.*’ Nevertheless, the report states that the potential for historical on site sources of contamination is ‘*high*’. Off-site sources of contamination include former industrial works and the potential for historical off site sources of contamination has been described as ‘*moderate to high.*’ There is also a potential coal mining legacy at the site. In Section 6.2.3 the report states that because of a coal outcrop located close to the site boundary, shallow coal workings (less than 30m) may be present beneath the site. This has been deemed as a moderate to high risk to the development. In summary, various potential pollutant linkages have been identified and consequently the report identifies a requirement for further assessment.

The Phase 2 report details the findings from an intrusive investigation. Four windowless sampler boreholes (WS1-WS4) were sunk to a depth of 4.45m below ground level and gas and groundwater monitoring wells were installed. In addition, two machine excavated trial pits (TP1-TP2) were dug to depths of 2.00m (TP1) and 2.20m (TP2), to examine near surface soils and two rotary drillholes (RO1 and RO2) were drilled using open hole techniques to a depth of 30m to investigate the presence and state of any historical coal mine workings within the Lower Coal Measures. Small, disturbed samples of the strata encountered were

recovered, placed in amber glass jars or plastic tubs as necessary and taken to I2 Analytical for geochemical testing.

The investigation revealed varying depths of made ground, ranging from 0.95m (TP2) to 10.50m (RO1). Boreholes RO1 and RO2 did not encounter any coal seams or workings. Groundwater levels during gas monitoring were recorded between 2.95m and 2.98m in WS3.

The results of the soil analysis indicated elevated levels of PAHs exceeding the chosen screening criteria relevant to the end-use. Specific contamination instances were found at TP1 (1.05m depth: dibenzo(ah)anthracene 4.1 mg/kg, total PAH 368 mg/kg), TP2 (0.5m depth: total PAH 56.1 mg/kg), WS1 (1.20m depth: benzo(b)fluoranthene 76 mg/kg, benzo(a)pyrene 50 mg/kg, dibenzo(ah)anthracene 6.4 mg/kg, total PAH 600 mg/kg), WS3 (0.60m depth: total PAH 458 mg/kg), and WS4 (0.50m depth: benzo(b)fluoranthene 45mg/kg, dibenzo(ah)anthracene 3.9 mg/kg, total PAH 411 mg/kg). The report deems the risk low due to the planned hardstanding cover. However, it emphasizes that if the project shifts to soft landscaping, remedial measures will be necessary and the report adds that '*Once the below ground fuel tanks have been removed, additional testing should be conducted, to determine if the soils immediately surrounding the tanks have been affected by TPAH and PAH contamination.*' Therefore, additional work is necessary.

Concerning the ground gas regime at the site, gas monitoring took place on four visits during when atmospheric ranged from 998 mb to 1018 mb. The maximum carbon dioxide concentration encountered was 5.6% v/v in WS2 on the first monitoring visit. No methane was detected throughout the investigation. The lowest oxygen concentration encountered was 15.4% v/v in WS2. The flow rate remained negligible (<0.1l/h). As carbon dioxide levels were recorded above 5% and PAH contamination encountered across the site, the authors recommend that a characteristic gas situation of 2 (CS2) is adopted for the site i.e. gas protection measures are necessary

We have reviewed the documents and accept the Phase I Desk Study, dated 24<sup>th</sup> May 2022 (ref: 82426-01) authored by PRP Environmental. Concerning the Phase II Ground Investigation Report we make the following comments:

1. **Piled Foundations:** We acknowledge the proposed use of piled foundations in the development. However, the document lacks commentary on how piling will impact ground gas pathways both within the development site and offsite.
2. **Atmospheric Pressure Trends:** The report does not provide information on atmospheric pressure trends (falling, steady, or rising) for each of the monitoring visits. Considering the significance of atmospheric pressure on ground gas regimes, this omission requires attention. We expect any ground gas monitoring undertaken to encompass worst-case atmospheric pressure scenarios, in accordance with best practice guidance.
3. **PID Monitoring Methodology:** Considering the site's former use, we expect a detailed methodology for detecting and sampling for Volatile Organic Compounds (VOCs) and semi-volatile organic compounds (sVOCs). We request that the applicant confirm the sampling methodology.

For these reasons, we cannot accept the Phase II Ground Investigation Report dated 2nd August 2022 (ref: 82426-02) authored by PRP Environmental. However, we recommend that

the following condition and footnote be applied to any consent granted, to address these gaps effectively and to ensure safe occupation of the site.

### **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. We understand that 11no car parking spaces have are proposed including 1no accessible parking space and 1no. designated electric car charging point. However no further details have been provided. A condition requiring charging points is therefore necessary.

### **Construction Environmental Management Plan**

The site is adjacent to existing residential properties. There may be unacceptable construction nuisance if the site is incorrectly managed. All reasonable steps must be taken to minimise and mitigate adverse effects from construction noise to protect nearby amenity. As the submitted documents do not include a Construction Environmental Management Plan (CEMP) a condition to secure one is required.

### **Recommended Conditions**

#### **NC8 Noise Report required for proposed noise generating use close to existing noise sensitive premises - Condition**

Before construction work commences a noise assessment report by a suitably competent person shall be submitted to and approved in writing by the Local Planning Authority. The report shall include:

- a) an assessment of all of the noise emissions from the proposed development
- b) details of existing background and predicted future noise levels at the boundary of noise sensitive premises
- c) a written scheme of how the occupants of the above-mentioned noise sensitive premises will be protected from noise from the proposed development including details of all necessary noise attenuation

The development shall not be brought into use until all works comprised within the measures specified in the approved report have been carried out in full and such measures shall be thereafter retained.

**Reason:** To ensure the proposed development does not cause harmful noise pollution within neighbouring noise sensitive locations, in the interest of amenity, to comply with the aims and objectives 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.

#### **HUC3 Hours of Use combined Open for Customers, Deliveries and Dispatches – Condition**

The use hereby permitted shall not be open to customers outside the hours of 09:00 to 17:00 Monday to Saturday, and

10:00 to 16:00 Sunday and Bank Holidays,

and there shall be no deliveries to, or dispatches from the premises outside these hours. No deliveries shall take place on Sundays or Bank Holidays.

**Reason:** To ensure that the proposed use(s) does not give rise to the loss of amenity to nearby residential properties, by reason of noise or disturbance at unsociable hours, 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.

**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 (that part of) 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.

#### **EVC1 Electric Vehicle Charging Points - Condition**

Before first occupation of the apartments, a scheme outlining the specific facilities for charging electric vehicles and other ultra-low emission vehicles for each dedicated parking space at the premises must be submitted to and approved in writing by the Local Planning Authority. This scheme must meet the minimum requirements in the current West Yorkshire Low Emission Strategy (WYLES) document. The approved facilities for charging electric vehicles must be installed before 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.

### **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**

No construction related noise shall be audible beyond the site boundary outside the hours of:  
07.30 to 18.30 hours Mondays to Fridays

08.00 to 13.00 hours, Saturdays

With no construction related noise audible beyond the site boundary on Sundays or Public Holidays.

For further information regarding dust control, guidance can be found in the Institute of Air Quality Management (IAQM) document "*Guidance on the assessment of dust from demolition and construction*" Version 1.1 2014.

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.