

Consultation Response from: KC Environmental Health (Pollution & Noise Control)
2023/92490 - Former Dowker Works, Dowker Street, Milnsbridge, Huddersfield, HD3 4JX
Erection of 38 dwellings with associated access and landscaping (within a Conservation Area)
Date Responded:
1st October 2024
Responding Officer:
NH
Responding Ref:
WK/202428810
Contaminated Land

Our records indicate the site is on potentially contaminated land due to its former use/s (site reference: 275/9).

- A Stage 2 Geo Environmental Report authored by ARP, dated 29th June 2023 (ref: WSD/01r1)
- A Contamination Remediation Statement authored by ARP, dated 29th June 2023 (ref: WSD/01rem1)

The Stage 2 report explains the site is the former site of Britannia Mills and residential buildings, with several mills, a dye works, and a gas works located within 200 metres of the site. A factory was present on site until it burned down in 2011. Two site investigations by ARP assessed several potential pollutant linkages: the initial investigation in 2015 involved 12 trial pits (TP1-TP12) excavated to depths between 1.6 metres and 3.8 metres below ground level, while a supplementary investigation in 2023 included four boreholes (WS2-WS5) and one hand pit (WS1), creating an approximate 25-metre grid pattern across the site. Overall, chemical analysis has been completed on 8 samples.

The ground conditions revealed varying depths of made ground over alluvium and sandstone bedrock. Chemical analysis, compared to human health screening criteria, identified risks from made ground contamination, with maximum concentrations of arsenic (91 mg/kg), copper (8,200 mg/kg), lead (990 mg/kg), and PAH, including benzo(a)pyrene (15 mg/kg in two samples). Chrysotile asbestos fibre was detected in several demolition rubble samples, and ash and clinker were identified in the made ground. The report concludes that remediation is necessary, with a statement provided in the appended documents.

The proposed remediation strategy includes a minimum of 0.6 metre of uncontaminated topsoil and subsoil. Additionally, a 0.1-metre-thick hard break layer of coarse crushed stone or robust geotextile/geogrid is recommended beneath the clean cover soils. A protective barrier is proposed in the culvert area.

After placing the cover soils in residential garden areas and public open spaces, it will be necessary to confirm the required 0.6 metre of uncontaminated soil by excavating trial pits to this depth across these areas, at a rate of one pit per two plots and a maximum spacing of 25 meters in public open spaces.

Laboratory testing of imported and site-won topsoil and subsoil will be required, with the testing schedule and necessary sample numbers specified in Section 5 of the report, in line with YALPAG guidance.

Comments

We have read the reports and do not accept them at the time of writing. The reasons for this are as follows:

- Section 2.5 of the Phase 2 report states: '*The findings or contents of the Stage 1 Desk Study Report are not reproduced here in full, and it is recommended that this report is read in conjunction with the Stage 1 Report.*' We request the Stage 1 report referred to, to confirm the validity of the Phase 2 report.
- At the time of the supplementary investigation in 2023, the northern end of the site was under dense vegetation cover (large bushes and small trees), with only a small clearing in the northeastern corner. Much of the northern end of the site was impenetrable due to the density of the vegetation. Given the site condition, the contamination encountered to date and the limited access in the north of the site, we request post-clearance sampling to confirm the site condition and to inform a revised remediation strategy.
- We also require clarification regarding changing to site levels and require further commentary on asbestos risk and the depth of clean cover proposed.

For these reasons, we recommend full contaminated land conditions.

Noise

The proposals introduce sensitive noise receptors close to potential noise sources. Consequently, we recommend conditions for a noise assessment report.

Construction Environmental Management Plan (CEMP)

The site is classed as a major and there is potential for loss of amenity to the occupiers of neighbouring properties through the construction of the proposed development site. A condition is recommended for the submission of a CEMP to address all potential issues.

Electric Vehicle Charging Points – Advisory

We note that parking is proposed at this development. We would encourage any electric vehicle charging points installed as part of this development to meet the requirements of the *Air Quality & Emissions Technical Planning Guidance* from the West Yorkshire Low Emissions Strategy Group. The applicant should note the information in the recommended Electric Vehicle Charging Points Footnote.

Recommended Conditions

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. 189 and 190 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. 189 and 190 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. 189 and 190 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. 189 and 190 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. 189 and 190 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. 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.

NC9 Noise Assessment Report and Mitigation Scheme - Condition

Before any enabling or 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 including any commercial premises 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

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 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 Bank/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 2.2 2024.

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.

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.
- Approval of EVCPs 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.