

**Consultation Response from: KC Environmental Health (Pollution & Noise Control)**
**2023/93077 - Land off Westgate, Cleckheaton, BD19 5DR**

**Discharge of conditions 6 (phasing plan), 7 (Phase II report), 8 (Remediation Strategy), 11 (CEMP), 12 (watercourse assessment), 13 (temporary drainage), 14 (flood routing), 15 (discharge rate), 16 (retaining walls and features), 18 (invasive species), 19 (drainage in highway), 20 (CEMP: Biodiversity) and 21 (highway condition surveys) of previous permission 2021/93567 for demolition of existing commercial buildings and erection of 180 dwellings with associated works**

**Date Responded:**  
**14<sup>th</sup> December 2023**
**Responding Officer:**  
**NH**
**Responding Ref:**  
**WK/202333919**

Conditions 6, 12, 13, 14, 15, 16, 18, 19, 20 and 21 are outside the remit of Environmental Health.

**Condition 7 – Phase II Report**

The following documents, authored by Lithos, have been received in support of discharging Condition 7:

- Geoenvironmental Appraisal, dated July 2023 (ref: 3043/5A)
- Detailed Site-Specific Quantitative Risk Assessment, dated July 2023 (ref: 3043/3A)
- Gas Risk Assessment, dated July 2023 (ref: 3043/5A)

The report includes geotechnical information, which is outside the remit of Environmental Health, this consultation response therefore only relates to the land contamination aspects of the report.

We accept the reports provided. Collectively these satisfy the requirements of Condition 7, therefore we recommend that Condition 7 is discharged.

**Condition 8 – Remediation Strategy**

A Remediation Strategy authored by Lithos, dated August 2023 (ref: 3043/4D) has been received in support of discharging Condition 8. The report includes geotechnical information, which is outside the remit of Environmental Health, this consultation response therefore only relates to the land contamination aspects of the report. We have read the reports provided and make the following comments.

The Remediation Strategy received is a revised version of the Remediation Strategy reviewed as part of the previous permission. The revised document references the revised ground investigation reports and site plans. The report still advocates the turnover of 3m of made ground at the site, the placement of clean cover in gardens and public open space and on-site treatment of hydrocarbon impacted soils.

The proposals include the application of clean cover in garden areas and public open space. The screening criteria to verify the soil as suitable for the intended use have been provided in the report. Our understanding of the clean cover proposals are as follows. For garden areas, a minimum depth of 600mm topsoil and subsoil is proposed, to be positioned over a high visibility contaminated ground warning/marker barrier. Beneath the barrier, a further 400mm thick layer of ‘cleaner’ made ground will be placed.

'Cleaner' made ground will be confirmed with additional testing. Where additional testing of the made ground soils confirms these are unsuitable for placement, then it will be necessary to remove 400mm depth of made ground. Soils in these areas will be replaced with imported materials or site-won made ground. In areas of public open space, a minimum depth of 600mm topsoil and subsoil is proposed over a high visibility contaminated ground warning/marker barrier.

The hazardous gas protection measures are revisited following the completion of the revised gas risk assessment in July 2023. Based on Planning Layout 18-CL2-SEGB-WE-01 Rev J, dated 29th March 2023, the report proposes to zone the site. In Area A & the former reservoir area (Plots 80 to 110 & 120 to 134), Amber 1 measures are proposed, including the installation of a hydrocarbon resistant membrane. In Areas B, C & D (Plots 1 to 79, 111 to 119 & 135 to 180) Amber 1 measures are proposed and the installation of a gas resistant membrane. The report advises that a combination of two or more of the three types of protection measures (slab, ventilation & membrane) should be used to achieve the BS8485 score. Proposals are also outlined to verify the installation of gas protection measures in accordance with CIRIA C735 and YALPAG guidance.

We generally support these proposals. We note the proposals for groundwater monitoring during the excavation of contaminated soils. In accordance with the unexpected, contaminated land condition associated with this permission we would expect the mobilisation of contaminants into the groundwater, to be reported to the LPA.

Nevertheless, we accept the Remediation Strategy authored by Lithos, dated August 2023 (ref: 3043/4D). Paragraph 184 of the National Planning Policy Framework states the responsibility for securing a safe development on a site affected by contamination rests with the developer and/or landowner. Based on the information provided, we recommend that Condition 8 should be discharged.

#### **Condition 11 – CEMP**

A Construction Management and Mitigation Plan authored by Strata, dated October 2023 (ref: no reference) has been received in support of discharging Condition 11. The documents have been assessed in relation to the following areas which are within the remit of Environmental Health. Mitigation measures to control fugitive dust emissions during the construction phase of the development should be implemented in accordance with those detailed in Table 17, page 22, of the report by Ensafe Consultants (ref: AQ109055-1) (dated: 28/06/2021) and retained for the duration of the construction period as prescribed by Condition 5 of previous permission 2021/93567. Therefore, we have not considered dust control further as part of Condition 11.

We have reviewed the document and do not consider the report to be sufficient to satisfy the requirements of Condition 11. The reasons for this decision are as follows:

- (1) The working hours listed in Section 3.1 are given as:

Monday to Friday: 7am – 6pm Saturday: 8am – 4pm No works will take place on Sundays or Bank Holidays unless prior written permission is obtained from the Local Planning Authority

These are not in accordance with our standard working hours that have been provided on the decision notice of permission 2021/93567.

We remind the applicant that 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.

- (2) The document does not appear to have included specific noise and vibration controls for site where piling is considered. However, the document does show understanding of best practice guidance for noise and vibration control. We request the applicant to confirm any specific control measures for piling activities.
- (3) Details of artificial lighting used in connection with all construction-related activities and security of the construction site must be included in the CEMP. Upon review of the document, it appears this information is missing. For completeness, we require details in relation to the artificial lighting to be used.
- (4) We expect more detailed information in relation the communications plan e.g. information relating to the letter drops, details of the site manager etc.

For these reasons, we are unable to accept the Construction Management and Mitigation Plan authored by Strata, dated October 2023 (ref: no reference). Therefore, Condition 11 must remain until further notice.

### **Recommendations**

#### **Condition 7 – Phase II Report**

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- Detailed Site-Specific Quantitative Risk Assessment, dated July 2023 (ref: 3043/3A)
- Gas Risk Assessment, dated July 2023 (ref: 3043/5A)

These satisfy the requirements of the condition; therefore Condition 7 should be discharged.

#### **Condition 8 – Remediation Strategy**

We accept the Remediation Strategy authored by Lithos, dated August 2023 (ref: 3043/4D). Paragraph 184 of the National Planning Policy Framework states the responsibility for securing a safe development on a site affected by contamination rests with the developer

and/or landowner. Based on the information provided, we recommend that Condition 8 should be discharged.

**Condition 11 – CEMP**

We are unable to accept the Construction Management and Mitigation Plan authored by Strata, dated October 2023 (ref: no reference). Therefore, Condition 11 must remain until further notice.