

**Consultation Response from: KC Environmental Health (Pollution & Noise Control)**
**2023/93539 Land adj Ledgard Bridge Mill, Back Station Road, Mirfield, WF14 8NZ**
**Outline application, including the considerations of access appearance, layout, and scale, for the erection of a six-storey building to host 76 residential apartments (C3 use) and ancillary works comprising demolition of vacant building, formation of new access, parking areas, open space and landscaping; erection of cycle and bin refuse storage structures**
**Date Responded:**  
**22 January 2024**
**Responding Officer:**  
**RM, MN**
**Responding Ref:**  
**WK/202340067**

We have reviewed the application and supporting information and make the following comments and recommendations.

**Contaminated Land**

A Phase 1 Geo-environmental Report by Haigh Huddleston & Associates (ref: E23/8012/R001) (dated: February 2023) has been submitted in support of the application. 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.

The Phase I report provides an in-depth appraisal of the site history and previous surrounding land uses, since the 1800s. The site has been in continuous use for industrial and commercial purposes since the late 1800s to the early 2000s. The conceptual model has identified current and likely source-pathway-receptor linkages. The report considers that there is a moderate risk of ground contamination being present at the site due to the potential for made ground, infilled historic filter tanks, basements and mill ponds. It also considers that there is a risk of ground gas. It goes on to recommend a Stage II Ground Investigation to determine the depth of any infill material and a minimum of 5 standpipes for gas and water level monitoring, including necessary soil sampling for metals, metalloids, EPA 16 PAHs and asbestos.

We accept the Phase 1 Report and recommend conditions for further site investigation.

**Noise**

A Noise Impact Assessment by ENS (ref: NIA-11149-23-11388v1) (dated 08 November 2023) has been submitted. It considers the noise environment at the site, which is controlled by various local sources, with road traffic noise from Back Station Road to the north and Calder Road to the west, and Mirfield Station and railway line (circa 95 metres) to the northeast running at an elevated position. Para 2.1.3 states consultation with the online resource 'Realtime Trains' has determined that there are circa 204no. passenger trains during the daytime (0700hrs – 2300hrs) and 27no. at night (2300hrs – 0700hrs). Freight traffic is circa 16no. passes during the daytime, and 5no. at night.

A noise survey was undertaken on Tuesday the 17<sup>th</sup> and Wednesday the 18<sup>th</sup> of October 2023 at a height of 10m above ground level as the railway line is elevated and a summary of the findings is shown in table 4-1. Para 4.2.2 states noise levels at the site were predominantly controlled by road traffic noise from Calder Road, with a lesser contribution from Back Station Road and the surrounding road network. The contribution of railway noise was noted to be low during the midday and early morning periods. No other noise sources were noted, other

than the low level of activity within the adjacent car park.

In order to meet with the internal requirements of BS8233, glazing and associated ventilation is specified and the predicted noise levels are shown in table 5-1 and these are accepted. While the report does not refer to any external amenity areas, the submitted plans show balconies which would be deemed to be external amenity areas and the summary of findings in table 4-1 shows these will meet with the external requirements of BS8233 and this is also accepted.

The submitted Planning Statement refers to a gym space split over two levels (ground floor & 1<sup>st</sup> floor) and plans from jg-d dated January 2022 show a residents gym marked as 'L' on drawing 17001\_3\_Floor Plans (Levels G-2) but this has not been covered by the submitted Noise Impact Assessment. The use is unlikely to be comparable to a commercial gym and so a condition is recommended for a Noise Management Plan to be submitted to consider the potential impact of this use on the amenity of the neighbouring occupiers. It should include, but is not limited to, management responsibility, hours of use, type of equipment, details of noise insulation and isolation materials etc.

The Planning Statement also makes reference to a rooftop terrace with barbeque area but this too has not been covered by the submitted Noise Impact Assessment. A condition is recommended for a Noise Management Plan to be submitted to consider the potential impact of this use on the amenity of the neighbouring occupiers. It should include, but is not limited to, management responsibility, hours of use and any other measures to prevent a loss of amenity.

#### **Loss of amenity caused by the construction of the development**

Because of the large scale of the development and the proximity of residential properties to the site boundary there is a significant potential for loss of amenity to the occupiers of nearby properties from noise, vibration, dust and artificial light from the demolition/construction phase of the development. Therefore, we recommend a condition for a Construction Environmental Management Plan (CEMP) to be submitted.

#### **Electric Vehicle Charging Points (EVCPs)**

We note from the submitted information that the proposal includes 129 new car parking spaces, a total of 239 (non-allocated) parking spaces including 25 EV charging points. We welcome the installation of the charging points and recommend a condition to secure them.

#### **Recommendations**

##### **CLC2 Submission of a Phase 2 Intrusive Site Investigation Report - Condition**

When demolition of the existing structures is complete 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). If 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 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.

#### **NC12 Noise Management Plan (Gym) - Condition**

Before the premises are brought into use, a Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall detail the control measures that will be taken to ensure that excessive noise does not arise from the use of the gym and the actions that will be taken to control any noise. The approved Noise Management Plan shall be implemented before use commences, reviewed periodically and retained thereafter.

**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.

#### **NC12 Noise Management Plan (Communal Terrace) - Condition**

Before the premises are brought into use, a Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall detail the control measures that will be taken to ensure that excessive noise does not arise from the use of the communal terrace with BBQ area and the actions that will be taken to control any noise. The approved Noise Management Plan shall be implemented before use commences, reviewed periodically and retained thereafter.

**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.

#### **CEMPC Construction Environmental Management Plan - Condition**

Prior to development commencing including demolition, 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 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 2.1 2023.

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.

**EVC2 Installation of Agreed Electric Vehicle Charging Points – Condition**

Before the development is brought into use, the dedicated facilities that will be provided for charging electric vehicles shall be installed and made operational. They must meet the minimum requirements in the current West Yorkshire Low Emission Strategy (WYLES) document. Once installed the charging points shall be 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 and Chapters 2, 9 and 15 of the National Planning Policy Framework.

**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.