

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:	2023/44/93652/E
Site Address:	103, Heckmondwike Road, Dewsbury Moor, Dewsbury, WF13 3PG
Description:	Discharge conditions 4 (site investigation), 5 (coal mining), 10-13 (site investigations), 14 (noise) on previous permission 2020/91865 for erection of vehicle repair garage and boundary fence/gates
Recommending Officer:	Elenya Jackson

DECISION – Discharge of Conditions – Split Decision

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

Kirsty Nicholls

AUTHORISED OFFICER

Date: 16-May-2024

Officer Report

103, Heckmondwike Road, Dewsbury Moor, Dewsbury, WF13 3PG

Discharge conditions 4-5 (site investigation), 10-13 (Risk Assessment) and Condition 14 (Noise) on previous permission 2020/91865 for erection of vehicle repair garage and boundary fence/gates

This application is a re-submission of application 2023/44/92349/E due to failure to provide sufficient information to discharge conditions 5,10,11,12 and 13.

Therefore, this application seeks to discharge these conditions as 4 and 14 have previously been agreed by the local planning authority.

Application 2020/91865 initially received permission on 11th February 2021.

Assessment

Condition 4

This condition was previously discharged under application: 2023/44/92349/E with the following statement:

- A Phase I / II Contaminated Land Site Assessment authored by Geo2, dated 03 May 2023 (ref: 23/1149.3.1)

It is considered that the details provided are acceptable for the purpose of satisfying condition 4

Condition 5

Where the findings of the intrusive site investigations required by condition 4 identify that coal mining legacy on the site poses a risk to surface stability, no built development shall commence until a detailed remediation scheme to protect the development from the effects of such land instability has been submitted to the Local Planning Authority for consideration and approval in writing. Following approval, the remedial works shall be implemented on site in complete accordance with the approved details.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 178 and 179 of the National Planning Policy Framework

Condition 10

Where further intrusive investigation is recommended in the Preliminary Risk Assessment set out in condition 9, approved pursuant to condition, groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report 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. 178 and 179 of the National Planning Policy Framework

Condition 11

Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 10, groundworks shall not commence until a Remediation Strategy 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. 178 and 179 of the National Planning Policy Framework

Condition 12

Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 11. 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. 178 and 179 of the National Planning Policy Framework

Condition 13

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. No part of the site shall be brought into use until such time as the remediation measures have been completed for the site 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 safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 178 and 179 of the National Planning Policy Framework.

Assessment Condition 5

The following has been submitted:

- Remediation Strategy (7 December 2024, prepared by Geo2 Remediation Ltd.
- The accompanying letter (dated 13 March 2024) from Tariq Khan of EverStruct Consulting Engineers.

Final confirmation was received from The Coal Authority on 26th of March 2024 that providing the proposed foundation would accord with CIRIA C758D, and

on the proviso that the foundation is installed accordingly, the Planning and Development Team at the Coal Authority would now raise no objections, should the LPA be minded to discharge Condition.

Assessment Condition 10

The following has been submitted:

- A Phase I / II Contaminated Land Site Assessment authored by Geo2, dated 03 May 2023 (ref: 23/1149.3.1)

KC Environmental Health have been consulted on this application and provided the following comments:

A Phase I / II Contaminated Land Site Assessment, authored by Geo2, dated 03 May 2023 (Ref: 23/1149.3.1) has been received in support of the application to discharge Condition 10. 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.

A site investigation was undertaken on 21st March 2023 and 3rd April 2023. The investigation included seven window sample boreholes (WS01-07) and three additional boreholes (BH1-3). Ground conditions were logged and analysis was conducted for volatile hydrocarbons using a photo-ionisation detector (PID). Eight soil samples were also obtained for chemical analysis of heavy metals, TPHs, BTEX and MTBE and five made ground soil samples were tested for asbestos identification. Ground gas and groundwater monitoring wells were installed in three boreholes, WS01, WS04 and WS07. The investigation was restricted in areas of the site due to the presence of buildings, buried services and parked vehicles.

Made ground comprised a layer of brown/light brown gravelly sandy clay, with gravels of brick and concrete, and a black ashy layer at about 0.5m bgl. The thickness of made ground ranged from 2.8m to >3m and the base of the made ground was not encountered in WS02- WS06. No visual or olfactory evidence of contamination was noted by the engineers. PID measurements from soils peaked at 4.3 ppm and 2.1 ppm from WS01 and WS04, respectively. Soil analysis testing results have been compared against 'Commercial' end use Generic Assessment Criteria (GACs) and for the 8 soil samples tested, no contaminants were found in concentrations above the relevant Commercial GAC. No asbestos fibres or asbestos containing materials were positively identified in made ground soils. A conceptual site model has been presented in Table 7 of the report and identifies several potential pollutant linkages, these have been classified as very low to moderate/low risk. In particular, the risk from ground gas is moderate/low due to the recorded presence of a coal seam 0.90m thick at depths of 12.5-14.2m bgl. Recommendations for further work are given in Section 8 of the report and include the completion of a gas monitoring programme over 3 to 6 months.

Based on the information within the Phase I / II Contaminated Land Site Assessment, authored by Geo2, dated 03 May 2023 (Ref: 23/1149.3.1), we recommend that Condition 10 is discharged.

Assessment Condition 11

The following has been submitted:

- A Remediation Strategy, authored by Geo2, dated 7th December 2023 (Ref: 23/1149.4.1)

This has been reviewed by KC Environmental health who made the following comments:

The decommissioning of petrol tanks is outside the remit of Environmental Health. For that reason, we will not be able to provide further comments on the decommissioning of any petrol tanks identified at this development. The reports also include geotechnical information, which is outside the remit of Environmental Health. Our comments relate to contaminated land remediation only.

The remediation strategy describes the findings from 6 no. gas monitoring visits over three months (undertaken on 27th September 13th and 27th October, 9th and 23rd November and 4th December 2023). Barometric pressure has been recorded at 982 to 1021mb, with visits undertaken during periods of falling, steady and rising atmospheric conditions. The monitoring found no methane (CH₄) during any of the six monitoring visits. However, elevated carbon dioxide concentrations (maximum 3.1% v/v), depleted oxygen (O₂) concentrations (minimum 16.1% v/v) and peak gas flows of 0.1l/hr were reported. In addition, the maximum Carbon Monoxide (CO) and Hydrogen Sulphide (H₂S) concentrations of 1ppm and 4ppm have been recorded. Hazardous gas flow rates (Q_{hg}) were calculated, and the highest 'representative' Q_{hg} has been recorded at 0.0031 in WS04.

The report concludes that the sites' ground gas regime is representative of Characteristic Situation 1 i.e. ground gas protection measures are therefore not required for the new vehicle repair garage. The report then details the procedure from tank and infrastructure removal. The decommissioning and removal are outside the remit of Environmental Health. However, in Section 10.3 of the report underground storage tank validation sampling proposals are given. After the tank has been removed, Geo2 propose that the edges and base of the remaining hole should be excavated further to remove any visual signs of contamination or odorous soils. Once removed, soil samples should be taken from the sides and base of the excavation and sent to a laboratory where they can be analysed to see if any excessive concentrations of contamination remain. The number of samples will be dependent on the size of the excavation but a minimum of 1 sample should be taken from each side (approx. 1 per 5m² face) of the excavation and 2 samples taken from the base. A sample of any groundwater seeping into the base of the excavation will also be collected for environmental chemical analysis. Additional vertical and horizontal excavations and samples may be required where exceedances against a commercial end use criteria are identified. The protocol for excavated material management is described in Section 10.4 of the report.

Any excavation will be backfilled, and the report acknowledges that chemical analysis of the imported material will be required to confirm that the material is clean and inert and will not present a risk to site end users or the local environment. The document refers to YALPAG guidance but also confirms that no landscaping is proposed as a part of the site's redevelopment, therefore no topsoil or subsoil will be imported as a part of the works. Lastly, proposals for a verification report are presented in Section 14 of the report.

Further information was provided by the agent and the following comments was provided by KC Environmental Health. We accept the Remediation Strategy, authored by Geo2, dated 7th December 2023 (Ref: 23/1149.4.1) and email dated 31st January 2024, and Condition 11 should be discharged. Final comments on this were received on 6th Feb 2024.

Note: The decommissioning of petrol tanks is outside the remit of Environmental Health. The applicant should seek the advice of West Yorkshire Fire and Rescue Service on the proposals for decommissioning presented in the Remediation Strategy, authored by Geo2 dated 7th December 2023 (Ref: 23/1149.4.1).

Assessment Condition 12

No details submitted.

Until the development is complete, there is the potential for contamination not previously considered to be identified or encountered on-site. As such, Condition 12 must remain.

Assessment Condition 13

No details submitted.

At the time of writing, no Validation Report has been submitted. For that reason, we recommend that Condition 13 remains in effect until further notice.

Assessment Condition 14

This condition was previously discharged under application 2021/92795 with a statement from KC Environmental Heath on 26th May 2022.

Decision notice text

Condition 4

This condition was previously discharged under application: 2023/92349

Condition 5

The following has been submitted:

- Remediation Strategy (7 December 2024, prepared by Geo2 Remediation Ltd.
- The accompanying letter (dated 13 March 2024) from Tariq Khan of EverStruct Consulting Engineers

Final confirmation was received from The Coal Authority on 26th of March 2024 that providing the proposed foundation would accord with CIRIA C758D, and on the proviso that the foundation is installed accordingly, the Planning and Development Team at the Coal Authority would now raise no objections, should the LPA be minded discharging Condition.

Condition 10

The following has been submitted:

- A Phase I / II Contaminated Land Site Assessment authored by Geo2, dated 03 May 2023 (ref: 23/1149.3.1)

The details provided in support of condition 10 have been considered acceptable by KC Environmental Health who recommend the discharge of condition 10.

Condition 11

The following has been submitted:

- Remediation strategy authored by Geo2, dated 7th December 2023 (Ref: 23/1149.4.1) and email dated 31st January 2024

The details provided in support of condition 11 have been considered acceptable by KC Environmental Health.

The decommissioning of petrol tanks is outside the remit of Environmental Health. The applicant should seek the advice of West Yorkshire Fire and Rescue Service on the proposals for decommissioning presented in the Remediation Strategy, authored by Geo2 dated 7th December 2023 (Ref: 23/1149.4.1).

This condition is considered discharged in principle by the Local Planning Authority. However, it is the applicant's responsibility to ensure any matters are compliant with any relevant regulations and that advice should be sought from the competent authority in accordance with paragraph 190 of the NPPF.

Condition 12

No details submitted.

Until the development is complete, there is the potential for contamination not previously considered to be identified or encountered on-site. As such, Condition 12 must remain.

Condition 13

No details submitted.

At the time of writing, no Validation Report has been submitted. For that reason, we recommend that Condition 13 remains in effect until further notice.

Condition 14

This condition was previously discharged under application 2021/92795 with a statement from KC Environmental Heath on 26th May 2022.