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:	**2024/44/90189/W**
Site Address:	Old Railway Goods Yard, Scar Lane, Milnsbridge, Huddersfield, HD3 4PE
Description:	Discharge conditions 3 (external materials), 7 (noise), 9 (Phase I Desk Study Report), 10 (Phase II Intrusive Site Investigation Report) on previous permission 2023/90672 for erection of industrial unit and associated parking (within a Conservation Area)
Recommending Officer:	Laura Yeadon

DECISION – DISCHARGE OF CONDITION, SPLIT DECISION

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

John Holmes

AUTHORISED OFFICER

Date: 18-Mar-2024

Officer Report

https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2024%2f90189

This application relate to planning permission 2023/90672 for the erection of an industrial unit and associated parking (within a Conservation Area). The application seeks to discharge conditions 3, 7, 9 and 10.

Condition 3 – materials

3. Before work on the building above foundation level commences, samples of the external facing materials to be used, and – notwithstanding the colour shown on the approved plan - the finish colour of the roof cladding, shall be left on site for the inspection of / submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out using the approved materials.
Reason: *To ensure the satisfactory appearance of the development on completion, to ensure that the development conserves and enhances the character of the Milnsbridge Conservation Area and to accord with the aims of Policies LP24 and LP35 of the Local Plan and Chapter 16 of the National Planning Policy Framework.*

Assessment of Condition 3

Samples have been left on site for inspection by the Local Planning Authority. The approved plans indicated that the proposed materials would be:

Roof – metal green cladding
Walls – timber cladding
Plinth – coursed stone

The materials were left on site and accord with the above details. The profile of the roof was left on site with green coloured swatches demonstrating 2 no. variants of green finishing colour. Either colour sample is considered to be acceptable in terms of visual amenity and the requirements of the condition. It is therefore considered the submitted scheme meets the requirements of the condition and this condition is discharged.

Condition 7 – noise

7. 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 the nearest 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 works shall be thereafter retained.
Reason: *This is a pre-commencement condition to ensure that potential noise emissions can be investigated and, if appropriate, mitigation measures imposed during construction, to ensure that the proposed development does not cause harmful noise pollution within neighbouring noise sensitive locations, to comply with the aims and objectives of Policies LP24(b) and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.*

Assessment of condition 7

Environmental Health Officers have been consulted and have confirmed that the applicant has submitted an Assessment of the Existing Noise Climate authored by DRUK Limited dated 14 November 2023 Ref DRUK/ACC/RS/ORGYSLMH/3254. Based upon the submitted plans for the location of the proposed unit, a BS4142 assessment has been conducted. It is noted that section 4 states the end user is unclear although the report mentions the existing motor vehicle engineer has expressed an interest.

The Officer states that the nearest noise sensitive receivers (NSRs) are identified in paragraph 4.3 and background sound level monitoring was conducted between 1000hrs to 1200hrs on Thursday 9th November and between 1400hrs to 1600hrs o Friday 10th November from 2 measurements positions as shown in Figure 2. A summary of the results for each measurement position is given in Tables 3 and 3.

The report states the noise contributions were primarily from road traffic on Scar Lane, occasional noise from the surrounding commercial enterprises on the Old Railway Goods Yard and the passage of trains to the North of the site.

The report considers the break out noise to the NSRs using typical construction methodology for the base, blockwork and roof along with a roller shutter door to the front with a number of reasonable assumptions on activity and use made. Based on this, the calculated noise level at the NSRs is given in table 6 and a BS4142 assessment undertaken with a +6dB penalty applied resulting in a low impact to both NSRs for both daytime and afternoon operations as shown in tables 7 – 10.

The report proceeds to explain that some of the noise from the unit may be noticeable but in context with the existing and neighbouring use, the sound levels from these other many and regular sound sources would effectively mask any noise contribution from the new industrial unit.

Whilst the construction materials are considered acceptable in terms of visual amenity, it is noted that Environmental Health officer require evidence to ensure the construction will meet or exceed the values referred to in the submitted Assessment of the Existing Noise Climate authored by DRUK Limited dated 14 November 2023 Ref DRUK/ACC/RS/ORGY SLMH/3254.

As such, at this time the Local Planning Authority are unable to discharge condition 7 of planning application number 2023/90672.

Condition 9 – Phase 1 Desk Report

9. 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:** This is a pre-commencement condition to ensure that potential contamination can be investigated in the interests of 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.*

Assessment of condition 9

Environmental Health Officers have been consulted and have confirmed that a Phase I: Desktop Study and Preliminary Risk Assessment Report, authored by GeoEnviro Solutions Ltd, dated November 2023 (ref: 4349-23 PI) has been received in support of the application to discharge Condition 9.

A Phase I report has been provided which assesses the potential source pollutant linkages and recommends a site investigation to establish the geoenvironmental conditions of the site. It is therefore considered that the findings of the report are acceptable and that condition 9 is satisfied.

Condition 10 – Phase II Intrusive Site Investigation Report

10. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition 9, 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:** This is a pre-commencement condition to ensure that potential contamination can be investigated in the interests of 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.*

Assessment of condition 10

Again, Environmental Health Officers have been consulted. It is confirmed that a Phase II: Ground Investigation & Updated Risk Assessment, authored by GeoEnviro Solutions Ltd, dated January 2024 (ref: 4349-23 PII) 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, and therefore the consultation response only related to the land contamination aspects of the report.

Officers have confirmed that a site walkover was carried out on the 9th December 2023. No visual or olfactory evidence of contamination was encountered or observed during this ground investigation. From the investigation undertaken (including window sampling and retrieval of samples for chemical analysis), exceedances against the generic assessment criteria for a commercial end-use were reported. These were at benzo(b)fluoranthene (280.42mg/kg), benzo(a)pyrene (319.15mg/kg) and dibenz(a,h)anthracene (36.71mg/kg). The report considers a single hotspot to have been identified at WS02 as no other exceedances against the chosen Generic Acceptance Criteria were identified elsewhere.

Due to the proposed commercial/industrial end use of the premises it is assumed a concrete floor slab is to be installed inside the building and hardstanding across external areas. As a result of this a very low risk rating has been assessed.

However, Officers are unable to discharge condition 10 are clarification on several matters is required.

Therefore., please submit the following information:

1. Officers do not agree with the risk assessment presented given that the source of the hydrocarbons has not been established, and the concentrations are significantly greater than the generic assessment criteria. Additional commentary is needed.

2. The report states that the intrusive investigation was undertaken 9th December 2023 Then, the laboratory sheets state the samples were taken dated 26th November 2023. The pictures of the soils retrieved from the boreholes are dated 4th June 2020. This discrepancy requires clarification, and it is expected that this is to include details of the sampling methodology to ensure sampling was undertaken in accordance with best practice guidance.

3. There appears to be no sampling or testing of samples to the western section of the development site, yet this area is part of the red line boundary. Paragraph 189b of the National Planning Policy Framework states that planning policies and decisions should ensure that after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990. So, essentially, we want to ensure that all soft-landscaping areas within the planning boundary are suitable for its intended end-use. However, without additional testing to the rear of the development it is unclear what remediation (if any) will be necessary. Clarification is necessary as to why no samples were taken in this area and how it will be demonstrated as suitable for the intended end-use. Should this area be hard covering, we request the applicant to confirm this intention.

As such, at this time the Local Planning Authority are unable to discharge condition 10 of planning application number 2023/90672. Should you wish to submit the further information, in relation to the above, please do so under this current application number (2024/90189) and no further fee will be required.

Decision text

Assessment of Condition 3

You have submitted the following:

- Discharge of condition information document
- Samples left on site for inspection by the Local Planning Authority.

The approved plans indicated that the proposed materials would be:

Roof – metal green cladding
Walls – timber cladding
Plinth – coursed stone

The materials were left on site and accord with the above details. The profile of the roof was left on site with green coloured swatches demonstrating 2 no. variants of green finishing colour. Either colour sample is considered to be acceptable. Therefore, providing that the works are carried out with the inspected materials, the condition shall be satisfied.

Assessment of Condition 7

You have submitted the following:

- Discharge of condition information document
- Assessment of the Existing Noise Climate authored by DRUK Limited dated 14 November 2023 Ref DRUK/ACC/RS/ORGYSLMH/3254

Whilst the content of the submitted noise report is acceptable, evidence is required to ensure the construction will meet or exceed the values referred to in the submitted Assessment of the Existing Noise Climate authored by DRUK Limited dated 14 November 2023 Ref DRUK/ACC/RS/ORGY SLMH/3254.

As such, at this time the Local Planning Authority are unable to discharge condition 7 of planning application number 2023/90672. Should you wish to submit the further information, in relation to the above, you can do so under this current application within 21 days.

Assessment of Condition 9

You have submitted the following:

- Phase I: Desktop Study and Preliminary Risk Assessment Report, authored by GeoEnviro Solutions Ltd, dated November 2023 (ref: 4349-23 PI)
- A Phase II: Ground Investigation & Updated Risk Assessment, authored by GeoEnviro Solutions Ltd, dated January 2024 (ref: 4349-23 PII)

A Phase I report has been provided which assesses the potential source pollutant linkages and recommends a site investigation to establish the geoenvironmental conditions of the site. The report is accepted the report and Condition 9 is discharged.

Assessment of Condition 10

You have submitted the following:

- Phase I: Desktop Study and Preliminary Risk Assessment Report, authored by GeoEnviro Solutions Ltd, dated November 2023 (ref: 4349-23 PI)
- A Phase II: Ground Investigation & Updated Risk Assessment, authored by GeoEnviro Solutions Ltd, dated January 2024 (ref: 4349-23 PII)

Further information is required before condition 10 can be satisfied. Clarification is required as follows:

1. Officers do not agree with the risk assessment presented given that the source of the hydrocarbons has not been established, and the concentrations are significantly greater than the generic assessment criteria. Additional commentary is needed.

1. The report states that the intrusive investigation was undertaken 9th December 2023 Then, the laboratory sheets state the samples were taken dated 26th November 2023. The pictures of the soils retrieved from the boreholes are dated 4th June 2020. This discrepancy requires clarification, and it is expected that this is to include details of the sampling methodology to ensure sampling was undertaken in accordance with best practice guidance.

2. There appears to be no sampling or testing of samples to the western section of the development site, yet this area is part of the red line boundary. Paragraph 189b of the National Planning Policy Framework states that planning policies and decisions should ensure that after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990. So, essentially, we want to ensure that all soft-landscaping areas within the planning boundary are suitable for its intended end-use. However, without additional testing to the rear of the development it is unclear what remediation (if any) will be necessary. Clarification is necessary as to why no samples were taken in this area and how it will be demonstrated as suitable for the intended end-use.

Should this area be hard covering, we request the applicant to confirm this intention.

As such, at this time the Local Planning Authority are unable to discharge condition 10 of planning application number 2023/90672. Should you wish to submit the further information, in relation to the above, you can do so under this current application within 21 days.

Date: 18th March 2024