

**Consultation Response from: KC Environmental Health (Pollution & Noise Control)**
**2024/90346 Future House, Pheasant Drive, Birstall, Batley, WF17 9LT**
**Change of use to Class B2 for use as industrial transport yard, with associated new office building, new fencing including new pedestrian and vehicular gates, widening of vehicular access, including re-surfacing of yard and access threshold, and new lighting to yard**
**Responding Date:**  
**8<sup>th</sup> March 2024**
**Responding Officer:**  
**SR**
**Responding Ref:**  
**WK202406488**
**Comments**

We have reviewed application 2024/90346 and make the following comments and recommendations. The application concerns a change of use to class B2 (industrial transport yard), with the construction of new office accommodation, fencing and a widened vehicular access. The site is surrounded by commercial buildings with no residential in the immediate vicinity.

**Contaminated Land**

Looking at our mapping system the site is situated on land identified as potentially contaminated, old chemical works, industrial estate and landfill (our site ref: 63/2). The site is surrounded by other identified possible contaminated sites and is close to two former landfill sites Leeds Road, Birstall ore re: 76/2, circa 280m E and Leeds Road, Howden Clough, our ref: 142/2, circa 330m S.

The site is in a Coal Authority high risk development area. In support of the application a Coal Mining Report by the Coal Authority, dated the 6<sup>th</sup> of September 2023 has been submitted. We have reviewed the document, it contains geotechnical information, which is outside the remit of Environmental Health, this response is in relation to potential contaminated land only.

The report informs that the site is likely underlaid with shallow coal deposits and possible workings which have associated spontaneous combustion and mine gas risk, this requires further investigation and intrusive investigations have been recommended.

Whilst we agree with the findings of the report, it is an initial appraisal of the coal legacy only. We therefore recommend full contaminated land conditions to ensure the site is made safe and suitable for the proposed use.

**Construction Noise**

Construction noise can give rise to loss of amenity to neighbouring noise sensitive receptors, for this reason a condition is necessary to limit the hours of operation for the site.

**Electric Vehicle Charging Points**

In order to future proof the site we would advise at least one EVCP is installed at the site. We would remind the applicant that approval under the Building Regulations may be required for an EVCP, and the applicant should contact their Building Control Provider for further information in relation to Approved Document S.

### **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 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.

#### **CSC1 Construction Site Working Times - Condition**

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.

**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

#### **CSF1 Construction Sites working times – Footnote**

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.