

**Consultation Response from: KC Environmental Health (Pollution & Noise Control)**
**2024/90513 Fearnley Street/Fall Lane/Brooks Yard, Westtown, Dewsbury**
**Construction of temporary access road to provide vehicle access to a temporary parking area for residents of Brooks Yard for the duration of the works to upgrade the adjacent Transpennine railway, along with removal of the temporary access road and reinstatement of the grassed area once railway works are completed**
**Date Responded:**  
**2<sup>nd</sup> April 2024**
**Responding Officer:**  
**RM**
**Responding Ref:**  
**WK/202408294**

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

**Contaminated Land**

The site of the proposed development is on land that has been identified as being potentially contaminated due to its former use (our site reference 399/5). However, as the development is for a temporary access road and parking area, we recommend conditions relating to unexpected contamination being encountered during the construction phase, and to demonstrate that any imported soils are suitable for use on the site.

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

There is a potential for loss of amenity to the occupiers of nearby properties from noise and vibration from the construction phase of the development. Therefore, we recommend a condition restricting the times when noisy construction activities (including deliveries) will be permitted.

**Recommendations**
**CLC6 Reporting of Unexpected Contamination – Condition**

If contamination, the presence of coal and/or evidence of coal workings is encountered during the development, all works 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 in the affected area shall not recommence until either (a) a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy.

Following completion of any measures identified in the approved Remediation Strategy a Verification Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as that part of the site has been remediated in accordance with the approved Remediation Strategy and a Verification Report in respect of those works 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. 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.

**LQ1 Imported Materials**

Prior to materials being imported to the site, a strategy detailing the intended placement, the source, characterisation and the suitability of any imported material must be submitted to and approved in writing the Local Planning Authority. The testing to demonstrate suitability must then be carried out in accordance with the approved strategy. Following importation and placement of the materials as described in the approved strategy, a Verification Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time until a Verification Report 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.

**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 Bank/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.