

Consultation Response from: KC Environmental Health (Pollution & Noise Control)		
2024/92512 Land at Whitehall Road West, Birkenshaw, BD11 2LS		
Discharge of details reserved by conditions 5 (internal roads), 6 (right turn lane), 8 (materials), 13 (ecological enhancement), 14 (coal mining legacy), 17 (temporary drainage), 18 (temporary waste arrangements), 20 (phase I study), 25 (air quality) and 27 (Construction Environmental Management Plan) of previous permission 2020/92802 for erection of 10 dwellings with associated infrastructure		
Responding Date: 1 st October 2024	Responding Officer: SR	Responding Ref: WK202430266
<p><u>Comments</u> We have reviewed the application in relation to conditions 20, 25 and 27 which are within the remit of Environmental Health.</p> <p>Condition 20 (phase I study) In support of the discharge of condition 20 a letter dated the 1st of May 2008 by JNP Group ref: NG7020/WHI/JAW/v1 has been submitted. We have reviewed the report provided, however due to the age of the report we cannot accept it to discharge Condition 20. The report itself suggests there are inconsistencies in regard to coal legacy at the site. In our response to the original application, we accepted a Geological and Mining Appraisal by Sub Surface North East dated September 2020 (ref: NE3973) which recommended an intrusive investigation to determine presence of coal/coal workings. The contaminated land implications of this appear to have been dismissed.</p> <p>Due to the above and the length of time that has passed since the report was authored, potential changes may have occurred on site, new contamination sources may have emerged, or previously identified risks may no longer be relevant, meaning the report may not accurately reflect the current site status. Therefore, we cannot accept the letter and contaminated land conditions must remain. All future reports must follow good practice guidance.</p> <p>Condition 25 (air quality) In support of the application an Air Quality Assessment by Miller Goodall, Report No:103182, dated the 26th of June 2024 has been submitted.</p> <p>The assessment details the suitability of the site, the impact that the development will have on existing air quality and how this will impact existing and future sensitive receptors during the construction and operational phases. It uses techniques detailed in national and local guidance, such as Local Air Quality Management Technical Guidance, the Institute of Air Quality Management (IAQM) Technical Guidance and The West Yorkshire Low Emission Strategy (WYLES) – Technical Planning Guidance.</p> <p><u>Construction Phase</u> For the construction phase a qualitative assessment of fugitive dust emissions was undertaken in accordance with the current Institute of Air Quality Management (IAQM) Guidance. This involved a risk assessment to identify nearby sensitive receptors and potential</p>		

sources of dust during the construction phase.

The report concludes that dust can be controlled by the implementation of good practice dust control mitigation. These are outlined in Appendix D of the report.

Operational Phase

The proposal meets a minor classification under WYLES; therefore, a screening assessment has been undertaken. The report uses data from an appropriately positioned monitoring location, Defra background concentrations for the vicinity have been listed. The report uses this data to demonstrate that the proposed site is considered suitable for residential use as concentrations of NO₂ and PM₁₀ are likely to be below the respective long and short term objectives. The proposed development will introduce a net increase of 99.6 light-duty vehicles (LDV) Annual Average Daily Traffic (AADT) and zero heavy-duty vehicles (HDV), it is concluded that changes arising from development traffic to cause adverse effects would be insignificant.

We accept the Air Quality Assessment by Miller Goodall, Report No. 103157, dated the 15th of May 2024.

Condition 27 (Construction Environmental Management Plan)

In support of the discharge of condition 27 three undated statements covering construction noise, dust and artificial light have been submitted. Working hours have been confirmed as 08.00 to 18.00Hrs Monday to Friday and 08.00 to 13.00Hrs on Saturdays, with no works expected to occur on Sundays. These are within Kirklees guidance for construction activities. A responsible person has been appointed and a complaints procedure is in place, with the developer's contact details listed on site signage.

Noise Control Statement

The document confirms mitigation controls within BS 5228 will be implemented on site, listing site specific mitigation.

Dust Control Statement

The site manager will be responsible for monitoring dust at site and implementing controls. Water suppression, vehicle washing and road sweepers when necessary will be employed. The document lists site specific

Construction lighting

The undated Artificial lighting Statement informs artificial lighting levels during construction are to be reduced by the careful selection of lighting, the use of barriers and siting/directing light sources away from existing buildings.

Recommendations

Condition 20 (phase I study)

Due to the reasons given above we are unable to recommend the discharge of the condition at this time.

Condition 25 (air quality)

We accept the Air Quality Assessment by Miller Goodall, Report No:103182, dated the 26th of

June 2024 and recommend the partial discharge of condition 25 as the condition requires the approved mitigation measures shall be implemented before the development comes into use and retained thereafter.

Condition 27 (Construction Environmental Management Plan)

We accept the statements submitted. However, condition 27 remains in place for the whole of the period of the construction phase, until completion and therefore cannot be fully discharged until all construction work at the site is completed.

The applicant is reminded that 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