

**Consultation Response from: KC Environmental Health (Pollution & Noise Control)**
**2024/92727 - Land adjacent to Ashbourne Drive, Liversedge**
**Erection of residential development 67 dwellings with associated access, parking, public open space, landscaping and infrastructure**
**Responding Date:**  
**25 November 2024**
**Responding Officers:**  
**MN, NH & SR**
**Responding Ref:**  
**WK202433245**
**Contaminated Land**

The application is classified as a major development proposing a sensitive end use. Our records indicate that the site is situated on and adjacent to potentially contaminated land and lies within 250 meters of historic landfill.

A Geoenvironmental Appraisal authored by Lithos (January 2024, Ref: 1462/4) has been submitted with the application. This combined Phase 1 and Phase 2 report includes geotechnical information, which is outside the scope of Environmental Health. Therefore, this consultation response focuses solely on the land contamination aspects of the report.

The site primarily consists of grazing fields. Former industrial activities were shown on OS maps to the north of the site, including the former Blacup Colliery and other potentially contaminative industries, such as a chemical works. Historic landfills are also known to exist within 250m of the site. Lithos have conducted intrusive site investigations in 2012 and 2020 to assess ground conditions, and potential contamination. The findings are shared in the report.

The investigations identified made ground in the southern and central areas, associated with the colliery, extending up to 3.4m in depth. Natural soils and coal measures were also noted in the soil profile. The investigation also confirmed the presence of shallow coal seams, with evidence of workings in the Shertcliffe Coal seam in the central areas of the site.

Several samples were sent for chemical analysis. In summary, the results revealed elevated arsenic levels and isolated instances of elevated metals (Cu and Zn). Statistical analysis and bioaccessibility testing confirmed, low bioaccessible arsenic and no significant elevated metal and/or metalloid contamination. Asbestos was (chrysotile, 0.003% w/w) detected in one sample. No elevated PAHs were identified from the analysis. Calorific value testing was completed on several samples given the nature of the ground conditions. Combustible materials, including ash, clinker, and colliery spoil, were reported with a maximum calorific value (CV) content of 13.5MJ/kg. Materials with CV >10MJ/kg are considered combustible. In light of the findings, remediation for this site is considered necessary. Lithos consider the topsoil and made ground topsoil are considered suitable for re-use.

Shallow groundwater showed no significant flows. Carbon dioxide concentrations reached up to 6.8% (v/v), with steady flows up to 8.5 l/h. Lithos also noted oxygen depletion, ranging between 13% and 16%, across all boreholes monitored. Gas Screening Values (GSVs) for methane and carbon dioxide were calculated as 0.0 and 0.6 l/h, respectively. Consequently, Lithos conclude that the site could be classified as Characteristic Situation 2 (CS2) due to shallow mine workings. This means that gas protection measures are necessary for this

development.

Recommendations include site regrading, mine shaft treatment, provision of clean soil cover in garden areas, and the reuse of topsoil. While no significant contamination was identified, remediation is still considered necessary to address combustible materials and ground gases. Notably, significant earthworks are anticipated, and Lithos state the recommendations may require review following final regrading plans.

### Comments

The report confirms that the site is suitable for development; however, several points require clarification:

1. Could the applicant provide details of the proposed regrading plans? Considering the significant regrading and grouting described, we expect Lithos to reassess the ground gas risk, accordingly.
2. Clarification is requested regarding the range and trends of atmospheric pressures recorded during the ground gas monitoring visits, as this information remains unclear. We expect monitoring to be undertaken in accordance with good practice guidance.
3. We cannot support the reuse of materials or the placement of made ground beneath hardstanding without full brownfield suite testing, given the sensitive end use and the amount of heterogenous made ground on site. Either further testing or additional justification is necessary to increase confidence in the current risk assessment.

Given these points, we recommend conditions to secure a detailed remediation strategy for the site and to ensure appropriate land contamination management throughout subsequent development phases.

### Air Quality

The proposed development site is located on land off Ashbourne Way, Cleckheaton. The nearest Kirklees Council declared air quality management (AQMA 7) is some 2.3Km away to the north west.

An Air Quality Assessment has been submitted authored by Redmore Environmental dated 08 August 2024 Ref: 8156r1. The report details 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 using techniques detailed in national and local guidance. It concludes that the predicted concentrations of nitrogen dioxide and particulate matter (PM10) and (PM2.5) are below the Air Quality Objectives and considered to be not significant in accordance with the Institute of Air Quality Management Guidance (IAQM).

### Construction Phase

An assessment of the impact of fugitive dust emissions from the construction phase was undertaken using the Institute of Air Quality Management (IAQM) document 'Guidance on the Assessment of Dust from Demolition and Construction, concluding that mitigation is necessary to control fugitive construction related dust. The mitigation is listed in table 14 of the report.

### Operational Phase

An assessment of the impact of traffic from the development has been undertaken using the criteria contained within the IAQM 'Land-Use Planning & Development Control: Planning for Air Quality'. The transport consultants for the project, indicated the development is predicted to generate 296 daily vehicle trips, based on background concentrations, operational phase road vehicle exhaust emissions are predicted to be not significant.

The report goes on to assess the development in line with the West Yorkshire Low Emissions (WYLES) -Technical Planning Guidance. The report concludes the proposal to be classified as medium. The report goes on to recommend mitigation measures to assist in reducing any potential impacts in relation to air quality. These include the provision of EV charging for all dedicated parking a travel plan and implementation of the construction phase fugitive dust controls within Table 14.

### Comment

We agree with the overall methodology and approach of the air quality assessment and concur with the conclusions of the report. We recommend a condition to control dust emissions during the construction phase, this is within the general Construction Environmental Management condition (CEMP). We would expect any future CEMP to clearly identify the link with the fugitive dust controls within the accepted air quality assessment.

### Noise

A Noise Impact Assessment has been submitted authored by ENS dated 16 August 2024 Ref NIA-11577-24-11862-v1 Cleckheaton. It identifies the local environment including the industrial estate to the north.

A noise survey was undertaken on Tuesday the 9<sup>th</sup> of July through to Wednesday the 10<sup>th</sup> of July 2024 from two measurement locations as shown in Appendix B and a summary of the results is given in table 4.1. Para 4.1.5 states during the daytime, the ambient noise environment on the site is generally controlled by distant road traffic noise and that no noise was noted from the industrial estate over the day or night-time periods at the closest location to the industrial estate.

As measured levels are relatively low, standard double glazing and trickle vents are specified and no specific mitigation is required externally.

The findings of the report are accepted.

### Odours

An Odour Assessment has been submitted authored by Redmore Environmental, Ref: 8156r2, dated 21 August 2024. It identifies the local environment including Lower Blacup Farm and the industrial estate to the north and the potential sources of odour are shown in table 1.

Field odour surveys were undertaken on the 26<sup>th</sup> and 30<sup>th</sup> of July 2024 and on the 9<sup>th</sup> of August 2024 from a number of locations as outlined in table 4 and a summary of the findings is given in tables 13, 14 and 15. In accordance with the IAQM Guidance on the Assessment of Odour for Planning document, table 20 assesses the odour risk and para 6.2.1 determines

a slight effect.

The findings of the report are accepted. The principle of Caveat Emptor should be considered when buying property next to a working farm.

### **Construction Environmental Management Plan (CEMP)**

A CEMP will be required in order to control any environmental emissions from the site and to protect the amenity of any neighbouring properties during this phase. The measures listed within table 14 of the Air Quality Assessment by Redmore Environmental, ref: 8156r1, dated the 8th of August 2024 should be incorporated into the CEMP.

### **Electric Vehicle Charging Points (EVCPs)**

In an application of this nature, it is expected that facilities for charging electric vehicles and other ultra-low emission vehicles are provided in accordance with the National Planning Policy Framework and *Air Quality & Emissions Technical Planning Guidance* from the West Yorkshire Low Emissions Strategy Group. An advisory relating to charging points is therefore necessary.

### **Recommended Conditions**

#### **CLC3 Submission of Remediation Strategy - Condition**

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 (that part of) 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. 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.

#### **CEMPC Construction Environmental Management Plan - Condition**

Prior to development commencing a Construction Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the Local Planning Authority. The plan shall describe in detail the actions that will be taken to minimise adverse impacts on occupiers of nearby properties by effectively controlling:

- Noise & vibration arising from all construction related activities. This should also include suitable restrictions on the hours of working on the site including times of deliveries.
- Dust arising from all construction related activities, which should include measures to monitor and record the emissions of dust during construction, in accordance with table 14 of Air Quality Assessment by Redmore Environmental, ref: 8156r1, dated the 8th of August 2024
- Artificial lighting used in connection with all construction related activities and security of the construction site.

A communications plan detailing the responsible person, their contact details and how this will be communicated to local residents and the Local Authority must be included.

The agreed plan shall be adhered to throughout the construction of the development.

**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.

**CEMPF Construction Environmental Management Plan - Footnote**

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.

Institute of Air Quality Management document "*Guidance on the assessment of dust from demolition and construction*" Version 1.1 2014 provides detailed information regarding dust control.

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.

**EVF1 Electric Vehicle Charging Points – Advisory Footnote**

- Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information in relation to Approved Document S.
- The electrical supply of the final installation should allow the charging equipment to operate at full rated capacity and the installation must comply with all applicable electrical requirements in force at the time of installation.
- To futureproof the development, we would encourage the applicant to provide these in accordance with the current *Air Quality & Emissions Technical Planning Guidance* from the West Yorkshire Low Emissions Strategy (WYLES) Group