

Consultation Response from: KC Environmental Health (Pollution & Noise Control)
2020/93308 Former Spotted Cow Pub, New Hey Road, Huddersfield HD3 4BU
Erection of foodstore (Use Class E) with associated parking, servicing areas and landscaping

Date Responded: 10 December 2020	Responding Officer: Mohammed Nasim (Noise) Rebecca Muff (Air Quality) Natalie Heaney (Contaminated Land) Richard Hume	Responding Ref: WK/202030347
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Noise

The applicant has submitted a Noise Assessment authored by Miller Goodall Ltd, dated 21 September 2020 Ref 102034_V4, in respect of the impact of noise from deliveries, external plant and car-parking associated with the proposed Lidl store.

At para 3.3, the assessment states that the proposed operating hours of the Lidl store are 0800 to 2200 Monday to Saturday and for six hours between 10:00 and 17:00 on Sunday. It is noted that on the application form the proposed hours of opening are also stated to be 08:00 to 22:00 Monday to Saturday but with no times stated for Sundays. It is considered that these times of operation are acceptable, but operation beyond these times may cause a loss of amenity to nearby residents therefore a condition to restrict the times of operation to those stated by the applicant is necessary.

The report advises that there will be up to two deliveries per day. The assessment of daytime deliveries identified a +3dB increase in the background levels which whilst not significant, is perceptible. This indicates a low-level impact was likely. The assessment of night-time deliveries identified a +11dB increase in the background levels and this indicates a significant adverse impact was likely. Based upon this assessment of both daytime and night-time deliveries, the authors of the report have consequently recommended that deliveries are restricted to daytime hours only. Although the raw noise measurement data has not been provided, the graphical information provided in the submitted Noise Assessment appears to show that the background noise levels in the morning between 07:00 and 08:00 and also in the evening between 22:00 and 23:00 are low and it is therefore considered that noise from deliveries at these times would also potentially cause loss of amenity to nearby residents. It is therefore considered that a condition to restrict the times of deliveries to, and also despatches from the service yard in line with the proposed store opening times is necessary.

The report includes an assessment of the likely noise impact from fixed plant at the store, comparing it against existing background noise levels. It concludes that it is unlikely to be a problem. A condition restricting the noise from external plant to ensure that it is controlled in line with the assessment is considered to be necessary.

The report also considers the impact of noise from vehicles visiting the site concluding this is unlikely to be a problem but does recommend that a 1.8m high acoustic fence is erected along the Eastern site boundary to mitigate any noise from the car park. A condition requiring the installation of the proposed acoustic barrier is necessary.

To control any noise from the site, the authors of the report have also recommended using Best Practicable Means through a Noise Management Plan. This is considered to be an important element of ongoing control of noise from the site and therefore a condition to require this is necessary.

Construction Environmental Management Plan

Parts of the proposed development are close to existing residential premises. Noise, vibration and artificial light associated with the construction phase of the development all have the potential to cause significant loss of amenity to nearby residents. A condition is therefore necessary to require these to be effectively controlled.

Contaminated Land

The combined Phase 1 and Phase 2 Contaminated Land Reports by Beam Consulting Ref: 09-122-DOC-002 Dated 22nd May 2018 has been reviewed. The report includes geo-technical information which is outside the remit of Environmental Health, this consultation response therefore only relates to the land contamination aspects of the report. The report concludes that there is no significant health risk at the site. I agree with its conclusions but consider that a condition relating to unexpected contamination that may be encountered during the construction activities is still necessary.

Air Quality

An Air Quality Impact Assessment (AQIA) by Miller Goodall, dated 8th March 2019, Ref: 102035v2 has been submitted in support of this application. The assessment includes the impact of the development during both the construction and operational phases. For the construction phase a qualitative assessment of dust levels was undertaken based on the Institute of Air Quality Management Guidance.

For the operational phase detailed dispersion modelling using ADMS-Roads, was undertaken to quantify NO₂ and PM₁₀ concentrations, using traffic data provided by EJS Associates the Transport consultants for the project. Traffic estimates predict that the development will generate 2400 traffic movements from LGV's, of which 30% will account for new vehicle movements. This suggests that the developments contribution is 720. New Hey Road is estimated to have traffic flows of 16165 vehicles, which means the development is predicted to increase the AADT by 4.45%, and 0.28% of this will be from HGV movements generated as a direct result of the development.

In accordance with The West Yorkshire Low Emissions Strategy (WYLES) – Technical Guidance the development meets criteria to define it as a Medium size development, however, it is not within an AQMA and does not meet the triggers to classify it as a Major development. The report concludes that the predicted annual NO₂ and PM₁₀ concentrations will be well below the air quality objectives for both the “*without development*” and “*with development*” scenarios and at all modelled sensitive receptor locations.

The report concluded that for the construction phase the impact of dust and PM₁₀ would be considered not significant, and that any impact could be further reduced by the implementation of the control measures that are listed in Appendix G - Dust Assessment

Mitigation of the Air Quality Impact Assessment (AQIA) by Miller Goodall, dated 8th March 2019, Ref: 102035v2.

The report refers to DEFRA's updated Emission Factor Toolkit, background concentrations and NO_x to NO₂ conversion toolkit since the dispersion modelling was undertaken, however a review of these changes in the context of the model have resulted in reductions of NO_x and PM₁₀ and the changes to the DEFRA tools were therefore thought to be not significant in the context of the assessment.

Having assessed the report, we agree with the methodology and approach and concur with the conclusions of the report that the NO₂ and PM₁₀ concentrations will not be exceeded. However, we do expect and that best practice mitigation measures as detailed in Appendix G of the report be implemented throughout the construction phase. Therefore, a condition will be necessary in order to control fugitive dust emissions during the construction phase.

Electric Vehicle Charging Points

The application proposal is for 113 parking spaces and 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. However, the applicant has put forward a proposal to install a Terra CJG rapid charger as detailed on page 17, section 8.5.2 of the (AQIA) by Miller Goodall, dated 8th March 2019, Ref: 102035v2, instead of the 12 standard chargers which would normally be required for this development. This is an acceptable offset as the rapid charger will provide at least the equivalent of 12 charges over the daily opening time which is broadly equivalent to 12 standard chargers. A condition requiring the implementation of the proposed charging point is necessary.

Odour

This application is for the erection of a Lidl store and it can be seen from the plans that the proposal is for the store to have an on-site bakery. My concern is with odours caused during the food preparation and cooking process and the impact that this will have on the amenity of the residents living near to the development. No information has been provided detailing the bakery extraction system, including measures to control odours and noise and how this is to be maintained. Therefore, it will be necessary for a condition to control the noise and odours relating to the bakery extraction system.

External Lighting

A lighting report by Signify (Project no. D-372174) dated 25.09.2020 has been submitted on behalf of Lidl in support of the application. The report details the proposed lighting scheme across the development site including the car park, lorry bay, and footpaths. The proposed development would appear to be in Environmental Zone E3 (suburban) – an area of medium district lighting. The predicted illuminance for each of the areas is summarised below:

- car park the maintained average illuminance is 14.1 lx
- lorry bay the maintained average illuminance is 23.7 lx
- foot path the maintained average illuminance is 5.7 lx

Across all areas the maintenance factor is 0.79

The vertical spill light diagrams for the car park show the extent of the illuminance beyond the site boundary. Both diagrams indicate an illuminance of 5 lx or less at light sensitive facades of properties that boarder the carpark. Having reviewed the report the lighting scheme appears to be acceptable. A condition will be necessary to require the external lighting to be installed as proposed to ensure adequate control the impact that the external lighting scheme will have on the amenity of the neighbouring properties.

Recommended conditions

HUC4 Hours Open for Customers and Deliveries and Dispatches – Condition

The use hereby permitted shall not be open to customers outside the hours of
08:00 to 22:00 Monday to Saturday and
10:00 to 17:00 Sundays

and there shall be no deliveries to, or dispatches from the service yard at the premises outside these hours.

Reason: To ensure that the proposed use(s) does not give rise to the loss of amenity to nearby residential properties, by reason of noise or disturbance at unsociable hours, to accord with the aims of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

NC10 - Noise from Fixed Plant & Equipment - Condition

The combined noise from any fixed mechanical services and external plant and equipment shall be effectively controlled so that the combined rating level of noise from all such equipment does not exceed the background sound level at any time. “Rating level” and “background sound level” are as defined in BS 4142:2014+A1:2019.

Reason: To ensure the proposed development does not cause harmful noise pollution within neighbouring noise sensitive locations, in the interest of amenity, to comply with the aims and objectives of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

BC1 Acoustic Barrier - Condition

Before the development is brought into use, an acoustic barrier as recommended in at Part 8.10.0 of the Noise Assessment by Miller Goodall Ltd, dated 21 September 2020 (Ref: 102034_V4) and as shown on the proposed Boundary Treatments Site Plan by HTC Architects dated October 2018 (ref: Job No. 1814 Dwg. No. P403 rev. w) shall be installed and retained thereafter.

Reason: To ensure the proposed development does not cause harmful noise pollution within neighbouring noise sensitive locations, in the interest of amenity, to comply with the aims and objectives of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

Noise Management Plan - Condition

Before the development is first brought into use a noise management plan, as recommended

in part 8.7.4 and detailed in Appendix 10 of the Noise Assessment by Miller Goodall Ltd, dated 21 September 2020 (Ref: 102034_V4), shall be implemented and retained thereafter.

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
- Artificial lighting used in connection with all construction related activities and security of the construction site

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 **xxxxxx** of the Local Plan

CEMPF Construction Environmental Management Plan - Footnote

Noisy construction related activities should not take place outside the hours of:

- 07.30 to 18.30 hours Mondays to Fridays
- 08.00 to 13.00 hours, Saturdays
- With no noisy activities on Sundays or Public Holidays

The Institute of Air Quality Management document "*Guidance on the assessment of dust from demolition and construction*" Version 1.1 2016 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.

CLC6 Reporting of Unexpected Contamination - Condition

In the event that contamination not previously identified by the developer prior to the grant of this planning permission is encountered during the development, 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. Groundworks in the affected area shall not recommence until either (a) a Remediation Strategy 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 Validation 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 Validation 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. 178 and 179 of the National Planning Policy Framework

CLC 7 Contaminated land - Footnote

All contamination reports shall be prepared in accordance with guidance in:

- *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

Dust1 Implement agreed Dust Mitigation Scheme – Condition

Before any construction work commences, the mitigation measures to control fugitive dust emissions during the construction phase of the development shall be implemented in accordance with those detailed in Appendix G - Dust Assessment Mitigation of the Air Quality Impact Assessment (AQIA) by Miller Goodall, Ref: 102035v2, dated 8th March 2019 and retained for the duration of the construction period.

Reason: To safeguard the amenities of the occupiers of nearby properties in accordance with part 15 of the NPPF and **xxxxx** of the Local Plan

EVC2 Installation of Agreed Electric Vehicle Charging Points – Condition

Before the development is brought into use the dedicated facilities that will be provided for charging electric vehicles shall be installed and operational in accordance with those detailed on page 17, section 8.5.2 of the Air Quality Impact Assessment by Miller Goodall, dated 8th March 2019, Ref: 102035v2. Once installed the charging points shall be retained thereafter.

Reason: In the interest of supporting and encouraging low emission vehicles, in the interest of air quality enhancement, to comply with the aims and objectives of Policies LP24 and LP51 of the Kirklees Local Plan and Chapters 2, 9 and 15 of the National Planning Policy Framework.

EVF1 Electric Vehicle Charging Points – Footnote

- A Standard Electric Vehicle Charging Point is one which is capable of providing a continuous supply of at least 16A (3.5kW) and up to 32A (7kW). The higher output is more likely to be futureproof
- At non-residential developments, the requirement for one standard electric vehicle charging point for at least 10% of parking spaces may initially be reduced to one charging point for at least 5% of parking spaces with the remainder provided at an agreed trigger point.
- For developments where some or all of the parking is likely to be used for shorter stay parking (30mins to 4 hours) then Fast (7-23kW) or Rapid (43kW+) charging points may

be more appropriate. If Fast or Rapid charging points are proposed together with restrictions on the times that vehicles are allowed to be parked at these points, then a lower number of charging points may be acceptable.

- The electrical supply of the final installation should allow the charging equipment to operate at full rated capacity.
- The installation must comply with all applicable electrical requirements in force at the time of installation.

OC1 Kitchen Extract Scheme - Condition

Before any baking commences details of a kitchen extract system shall be submitted to and approved in writing by the Local Planning Authority. The details shall provide the following information:

- A risk assessment for odour which considers amount and type of food that will be cooked together with the proposed dispersion of odours and proximity of receptors likely to be affected by any cooking odours.
- Based on the risk assessment, details of the proposed methods of odour control and dispersion of any extracted odours.
- Details showing the proposed location of all the major components of the extract system.
- The noise mitigation measures that will be incorporated in the extract system and details of the likely resulting noise levels that will be caused by operation of the extract system, in particular how loud it will be at nearby noise sensitive locations.
- The proposed ongoing maintenance schedule that will be carried out to ensure that the extract system continues to effectively control odours and not cause excessive noise.

Before baking commences the approved extract system shall be installed and thereafter retained and maintained in accordance with the approved details.

Reason: To ensure the proposed development does not cause harmful odour pollution within either a public area or at neighbouring premises in the interest of amenity, to comply with the aims and objectives of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

Footnote

Detailed advice is available in “*Control of Odour and Noise from Commercial Kitchen Exhaust Systems*” by EMAQ Sep 2018 which is an update of “*Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems*” by DEFRA 2005.

LC5 Installation of the Agreed External Artificial Lighting – Condition

Before the development is brought into use the external artificial lighting scheme shall be installed in accordance with those detailed in the lighting report by Signify (project no. D-372174) dated 25. 09. 2020. The external artificial lighting shall be installed and operated thereafter in accordance with the approved scheme.

Reason: To safeguard the amenities of the occupiers of nearby properties and promote sustainable development in accordance with part 2 and 15 of the NPPF and **xxxxx** of the Local Plan.

LF1 Artificial lighting - Footnote

The proposed design levels of illuminance should be shown to be appropriate for the intended

use by reference to appropriate guidance. Generally, to minimise problems of glare and stray light from external artificial lighting it should be installed and maintained in accordance with the *“Guidance Notes for the Reduction of Obtrusive Light”* by the Institution of Lighting Professionals: 2011 www.theilp.org.uk. The predicted levels of stray light must not exceed the recommended maximum levels given in Table 2 of this guidance for an Environmental Zone E3.