

Dealt with by: Environmental Health

Our Ref: SMD/2022/0189

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Date: 5th August 2022

MEMORANDUM: PLANNING CONSULTATION

LOCATION

**Land at Broad Street
Leek**

PROPOSED DEVELOPMENT

**Erection of two units (Class E/Sui Generis) and
associated works.**

Potential Areas of Environmental Concern.

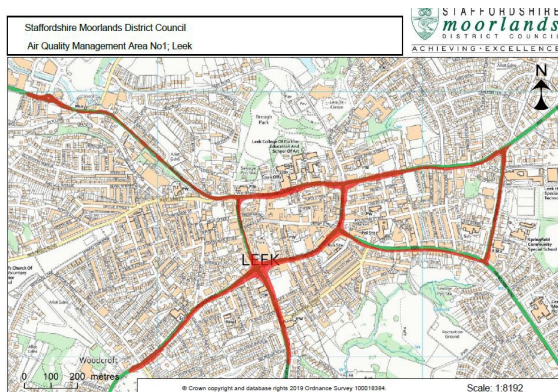
1. Air Quality – Holding Objection

Further Comments

2. Construction Impacts (Condition)
3. Plant Noise (Condition)
4. Cooking Smells (Condition)
5. Breakout noise and Amplified Music (Condition)
6. Contamination – Former Save Petrol Station (Condition)
7. Food Registration (See Advisory)
8. Asbestos (See Advisory)

General Comments – Objection

Air Quality: - Holding Objection. No information has been presented on how the proposed development may impact on the adjacent Leek Air Quality Management Area (AQMA), declared in 2019.



Impacts on an AQMA is a material planning consideration. <https://www.gov.uk/guidance/air-quality--3#what-air-quality-considerations-does-planning-need-to-address>

There are two main areas where a development may have a significant impact on air quality, along Broad Street;

- (1) If the development is likely to cause a deterioration in local air quality
- (2) Where the proposed development is to be located in an area of poor air quality

It is considered likely that the development has the potential to impact the Leek AQMA in broad street by 2 means:

- Primary by increasing / and or altering the traffic flows along Broad street a potentially increasing congestion & associated emissions at other receptors along Broad street, Broad Street / Compton Junction
- Also being a potential direct source of some emissions (cooking /boilers etc)

Until and AQ assessment has been undertaken by a competent professional it is not known what the potential impact of this development on the local AQMA.

Therefore, Environmental Health would recommend refusal at this stage.

Additional Comments

Planning permission has previously been granted for this site under permission SMD/2010/0628 (10/00676/OUT)

Contamination: The site is a former Save Petrol Station, through this is does not appear to have been noted in the application . The site is also on a source protection zone (Environment Agency). It is not considered that the viability of the development would be affected by the likely level of contamination, however this needs to be investigated prior to development.

Amenity This is for a 2 unit development for a restaurant and café/bakery. There were amenity protection conditions placed on that permission. We would recommend similar conditions are placed on any permission granted. It is noted there is no drive thru element to this development.

There are no details provided regarding plant and machinery which are to be installed as part of this permission. We would recommend a noise controlling conditions are placed on any permission granted to require the construction of the unit and operation of any plant under this permission does not exceed background noise when measured under BS4142:2014. Additionally we would advise details of extraction, filtration and cooking smell abatement are submitted for approval prior to installation, condition advised.

Note: The granting of planning permission does not in any way indemnify against statutory nuisance action being taken should substantiated complaints within the remit of part III of the Environmental Protection Act 1990 be received.

Recommendation

No objection subject to the following conditions being applied to any permission granted.

1. Construction and demolition works: Environmental Method Statement

No phase of the development hereby permitted shall take place until a Demolition and Construction and Environmental Method Statement has been submitted to and approved in writing by the Local Planning Authority, which shall include the following details:-

- I. the hours of work, which shall not exceed the following: Construction and associated deliveries to the site shall not take place outside 08:00 to 18:00 hours Mondays to Fridays, and 08:00 to 13:00 hours on Saturdays, nor at any time on Sundays or Bank Holiday;
- II. the arrangements for prior notification to the occupiers of potentially affected properties;
- III. the responsible person (e.g. site manager / office) who could be contacted in the event of complaint;
- IV. no activity hereby permitted shall cause dust to be emitted beyond the site boundary so as to adversely affect adjacent residential properties and/or other sensitive uses and/or the local environment. In the event dust is caused to escape the site boundary the activity shall be stopped until sufficient dust suppression has been undertaken to prevent further escape. There shall always be the appropriate means and sufficient water resources on site for dust suppression. These should be made available for inspection when required by officers of the Local Planning Authority
- V. a scheme for recycling/disposal of waste resulting from the construction works;
- VI. Details of any generator to be used on site including location, timings and acoustic screening;
- VII. During construction/demolition phases amplified music and/or radios shall not be audible beyond the site boundary;
- VIII. No waste material associated with the demolition or construction hereby permitted shall be burnt on site but shall be kept securely for removal to prevent escape into the environment.

All works shall be carried out in accordance with the approved details. Any alteration to this Plan shall be approved in writing by the Local Planning Authority prior to commencement of the alteration.

Reason: *To protect the amenities of the area.*

2. Cooking Smells

Prior to the commencement of development, a scheme containing full details of arrangements for internal air extraction, odour control, and discharge to atmosphere from cooking operations, including any external ducting and flues, shall be submitted to and approved in writing by the local planning authority. The works detailed in the approved scheme shall be installed in their entirety before the use hereby permitted is commenced. The equipment shall thereafter be maintained in accordance with the manufacturer's instructions and operated at all times when cooking is being carried out unless otherwise agreed beforehand in writing with the local planning authority. The equipment shall be installed and in full working order to the satisfaction of the Local Planning Authority prior to the commencement of use. (Any system installed must be by suitably qualified competent engineers and the canopy must meet all relevant Health and Safety requirements including the use of Gas Interlocks. The provision of a commissioning certificate issued by a Gas Safe registered engineer should be available for inspection.)

Reason: *To ensure that unsatisfactory cooking odours outside the premises are minimised, in the interest of the amenity of occupiers of nearby properties.*

3. Plant and Machinery

The machinery, plant or equipment including air condition and ventilation systems ("machinery") installed or operated in connection with the carrying out of this permission shall be so enclosed and/or attenuated that the noise generated by the operation of the machinery shall not increase the background noise levels during day time expressed as LA90 [1hour] (day time 07:00-23:00 hours) and/or (b) LA90 [15 mins] during night time (night time 23:00-07:00 hours) at any adjoining noise sensitive locations or premises in separate occupation above that prevailing when the machinery is not operating. Noise measurements for the purpose of this condition shall be pursuant to BS 4142 (2014 +A1:2019)(Method for Rating and assessing industrial and commercial sound)

Reason:- *To safeguard the amenity of local residents and that of the surrounding area from noise disturbance.*

4. Noise Breakout

Prior to first approved use, the approved building shall be constructed to provide sound attenuation against internally generated noise of not less than 35 dB averaged over the frequency range of 100-3150 Hz. Details of the construction shall be submitted for approval. The approved works shall be retained for the life of the development.

Reason:- *In the interests of the general amenities of the area*

5. Noise: Amplified Music

No amplified sound shall be audible within or at the boundary of any noise sensitive (occupied) premises either attached to or in the vicinity of the premises to which this application refers.

Reason: *To ensure that the reasonable residential amenities of adjoining properties are adequately protected from noise pollution.*

6. Lighting

The artificial lighting incorporated into this site in connection to this application shall not increase the pre-existing illuminance at the adjoining light sensitive locations when the light (s) is (are) in operation. Details of all artificial lighting to be installed under this permission should be submitted to and approved by the Local Planning Authority prior to development commencing.

Reason: *To protect the local amenities of the local residents by reason of excess of illuminance*

7. Contamination

No development approved by this planning permission shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, property (existing or proposed including buildings, crops, livestock, pets, woodland, service lines and pipes; buildings), adjoining land and ground and surface waters, has been submitted to and approved in writing by the Local Planning Authority. The scheme must include:

- a. A site investigation, carried out by a competent person to include a desk study, site walkover, and the production of a site conceptual model to support a detailed assessment of contamination risks to all receptors that may be affected, including those off site. Such an assessment shall be carried out in accordance with authoritative UK guidance.
- b. The results of the site investigation and the detailed risk assessment referred to in (a) and, based on these, an options appraisal and a remediation strategy giving full details of remediation objectives and remediation criteria
- c. A validation plan providing details of the data that will be collected in order to demonstrate that the all works set out in (a) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
- d. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

8. Contamination Validation

Prior to bringing the development into first use, a validation report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved validation plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the validation plan, and for the reporting of this to the local planning authority.

9. Soil Importation

No soil is to be imported to the site until it has been tested for contamination and assessed for its suitability for the proposed development; a suitable methodology for testing this material should be submitted to and agreed by the Local Planning Authority prior to the soils being imported onto site. The methodology should include the sampling frequency, testing schedules, criteria against which the analytical results will be assessed (as determined by the risk assessment) and source material information. The analysis shall then be carried out and validatory evidence submitted to and approved in writing to by the Local Planning Authority.

Reason (common to 7-9):- *To ensure that the proposed development meets the requirements of the National Planning Policy Framework in that all potential risks to human health, controlled waters and wider environment are known and where necessary dealt with via remediation and or management of those risks.*

Advisory Note/ Informative:

- Please be aware that the responsibility for safe development and secure occupancy of the site rests with the developer.
- Any approved noise scheme and measurements should pay due regard to the Professional Guidance on Planning and Noise (ProPG), British Standard BS8233: Sound insulation and noise reduction for buildings (Code of Practice), BS4142:2014 Methods for rating and assessing industrial or commercial sound and/or the Building Regulations 2010 Document E or other appropriate guidance
- A Demolition or refurbishment asbestos survey and risk assessment should be carried out prior to the demolition and conversion of the existing buildings. The enforcing authority for this type of work is the Health and Safety Executive (HSE) and it is recommended that you contact them directly to discuss their requirements: <http://www.hse.gov.uk/>
- Food Registration: Under Regulation (EC) No 852/2004 Article 6 Paras 1 and 2 every food business operator shall cooperate with and notify the appropriate competent authority by completion of a food establishment registration form for each establishment under its control that carries out any of the stages of production, processing and distribution of food, with a view to the registration of each establishment. Food business operators shall also ensure that the competent authority always has up-to-date information on establishments, including by notifying any significant change in activities and any closure of an existing establishment.

The applicant is advised to contact the Environmental Health Department,
Staffordshire Moorlands District Council, Moorlands House, Stockwell Street, Leek,
Staffordshire Moorlands Tel: 01538 395400 Fax: 01538 388393
Email: environmental.health@staffsmoorlands.gov.uk

- A Demolition or refurbishment asbestos survey and risk assessment should be carried out prior to the demolition of the existing buildings. The enforcing authority for this type of work is the Health and Safety Executive (HSE) and it is recommended that you contact them directly to discuss their requirements: <http://www.hse.gov.uk/>
- During any demolition and construction activities (including landscaping) the contractor shall take all reasonable steps to prevent dust formation and prevent any dust formed from leaving the site boundary.
- The control of dust and emissions from construction and demolition Best Practice Guidance, produced by the greater London councils <http://www.london.gov.uk/sites/default/files/BPGcontrolofdustandemissions.pdf>

- Building Research Establishment Guidance Document 'Control of Dust from Construction and Demolition Activities' (BR456)
- If required, contamination risk assessments shall be carried out in accordance with UK policy the Land contamination risk management framework (LCRM), published by the Environment Agency
<https://www.gov.uk/government/publications/land-contamination-risk-management-lcrm>
 - Submission of reports should also be made to the Environment Agency for comment with regard to their remit to protect ground and surface waters from pollution and their obligations relating to contaminated land.
 - The Local Planning Authority will determine the acceptability of reports on the basis of the information made available to it. Please be aware that should a risk of harm from contamination remain post development, where the applicant had prior knowledge of the contamination, the applicant is likely to be liable under Part II (a) of the Environmental Protection Act 1990 and as such become an "appropriate person". In this event the applicant will be lawfully responsible to remove the risk posed by the contamination.
 - Equally if during any site works a pathway for any contaminant on site is created and humans, waters, property or ecological systems are exposed to this, the applicant or those acting on behalf of the applicant will be liable under part II (a) of the Environmental Protection Act 1990 if the risks are not adequately addressed during the site redevelopment.
 - During investigation and remediation works the applicant and those acting on behalf of the applicant must ensure that site workers, public property and the environment are protected against noise, dust, odour and fumes
 - The applicant is advised that should there be a requirement as part of the Remediation Strategy to treat, reuse or remove contaminated material on the site, the Environment Agency must be consulted, as these activities may need to be licensed or permitted. Contaminated materials identified for removal off site must be disposed of in an appropriately licensed landfill site.
 - Staffordshire Moorlands District Council is keen to liaise with all stakeholders involved in this application. As such, we recommend that a proposed scope of works is forwarded to the Environmental Health Department and agreed in principle prior to site investigation works being undertaken. The Environmental Health Department is also prepared to review draft copies of reports prior to final submission to the Planning Department in order to ensure that works undertaken are sufficient to discharge the contaminated land conditions.

Regards,

Environmental Health