

**25th September 2023**

**Dear Consultee,**

**PART I - DETAILS OF APPLICATION**

**Date of Application**

8th September 2023

**Application No.**

**23/02094/FULMAJ**

**THE PROPOSAL AND LOCATION OF THE DEVELOPMENT:**

Full planning permission for the redevelopment of the Kennet Centre comprising the partial demolition of the existing building on site and the development of new residential dwellings (Use Class C3) and residents ancillary facilities; commercial, business and service floorspace including office (Class E (a, b, c, d, e, f, and g)); access, parking, and cycle parking; landscaping and open space; sustainable energy installations; associated works, and alterations to the retained Vue Cinema and multi storey car park.

The Mall, The Kennet Centre, Newbury, RG14 5EN

You have been sent this letter as notification that you have received a consultation request for the above application. Please visit the following link and reply via your Consultee Access in-tray: [Consultee Access In-Tray](#).

Please respond to this consultation request by 16th October 2023.

If you have any questions or queries regarding the application in the meantime, please don't hesitate to contact me.

Kind regards

**Debra Inston**

**Case Officer**

The following aspects have been considered in this response:

- The impact of noise and odour from the development on existing and future receptors
- The impact of the existing environment on future receptors
- Air quality
- Land contamination
- Impact of noise, vibration and dust during the construction phase

### **Operational Phase - Noise**

I have reviewed the Stuart Michael Associates report - SMA Ref: 6377/NA - Sept 2023

The report has not been updated to reflect the current proposal and focuses solely on construction phase noise and the impact of road traffic noise on future occupiers.

There has been no assessment of the wider noise implications including the impact of the town centre night time economy on the future occupiers, the impact of the future commercial premises on the existing and future residential properties or the impact of noise and vibration from required plant. There are existing licenced premises in close proximity to the proposed residential properties and the impact on the future occupiers does not appear to have been assessed. For example, The Newbury currently has a terrace with music which appears to be overlooked by residential properties.

**Further information required** - I would suggest that this requires assessment by a suitably qualified acoustic consultant and suitable mitigation measures proposed where necessary. I would recommend that this should also be conditioned, see Noise – future residents condition below.

Class E use is proposed for ground floor level premises although the end user will not yet be known. I note from the plans that a gym is proposed for ground floor block A with residential above. **I would recommend that a condition for a noise management plan to be submitted and approved for Use Class E premises and the following informative is attached to any planning approval.**

### **Condition – Noise Management Plan for Use Class E Premises**

A Noise Management Plan shall be produced for Use Class E premises and submitted to Environmental Health for approval prior to a change of use. The Noise Management Plan shall include:

1. An assessment of how the business use could impact neighbouring noise sensitive receptors, including structural and airborne transfer of noise
2. Details of the noise control measures employed to mitigate the impact of noise as far as reasonably possible, including structural design, operational hours, and noise management procedures
3. Contact details of the person responsible for noise management

The noise management plan shall be reviewed periodically and whenever there are changes which could result in a change to the impact on surrounding neighbours.

Reason: In the interests of the amenities of neighbouring occupiers

### **Informative**

Use class E covers a variety of commercial uses, some of which have a greater potential for noise and vibration to affect adjoining or neighbouring premises, such as gyms, licensed premises or creches. Once permitted, the use could change within this category without requiring further planning approval.

It will be the responsibility of the end user to ensure that noise mitigation measures are suitable for the use prior to that use commencing.

It is usually simpler and more cost effective to design noise mitigation measures for the end use prior to occupation rather than retrofitting solutions so it is recommended that the intended use is carefully considered and appropriate mitigation included at the design stage.

There is specific guidance available for gyms ProPG: Gym Acoustics Guidance (GAG) March 2023.

An abatement notice will be served should it be established that there is noise or vibration amounting to a statutory nuisance under the Environmental Protection Act 1990 arising from that use.

### **Noise – future residents**

The Stuart Michael Associates report recommends glazing options to achieve satisfactory internal noise levels however no scheme appears to have been submitted for approval. I would therefore recommend the following condition in conjunction with the comment above regarding noise from the night time economy:

#### **Condition – noise protection for future occupiers**

A scheme for protecting the proposed dwellings of the approved development from road and entertainment noise from the town centre night time economy shall be submitted, for written approval, to the Local Planning Authority.

The development shall not be occupied until the noise mitigation measure identified in the approved scheme, have been fully implemented. The noise mitigation measures shall be retained and maintained thereafter.

REASON: To protect future residents from noise from road noise and commercial noise from the town centre.

I would recommend a condition restricting the hours during which deliveries and collections to commercial premises can be made.

#### **Condition – Deliveries**

No deliveries including collection of waste shall be despatched or accepted outside the following times.

Monday to Saturday – 7:00 am and 10:00 pm

Sundays and Public Holidays – 9:00 am and 6:00 pm

Vehicle engines and refrigeration units shall be switched off during deliveries and no engine idling shall be permitted.

Reason: To protect the amenity of residents living in the vicinity of the site and to reduce impact on air quality

### **Communal Refuse Stores**

**Further information requested or secured via condition:** I note that there are a number of refuse stores proposed and I would request a waste management plan including:

1. details of who would be responsible for the management and cleaning of the stores
2. cleaning and management arrangement details
3. pest control arrangements
4. odour control arrangements including ventilation details.

### **Extraction**

It is expected that some of the commercial premises will require plant for extraction, heating, air conditioning or condensers which have the potential to cause noise, vibration and odour issues for adjoining or neighbouring properties. There is also likely to be air source heat pumps for the residential properties. **I would therefore recommend the following conditions:**

#### **Cooking Odours from Commercial Kitchens**

The applicant shall submit to the Local Planning Authority, for written approval, a scheme of works to minimise the emission of cooking odours.

The permitted use shall not commence until the odour mitigation measures, as set out in the approved scheme, have been implemented

The odour mitigation measures shall be maintained and retained for the duration of the development.

Reason: In the interests of the amenities of neighbouring occupiers

### **Plant noise**

Before development commences the following shall be submitted to the Local Planning Authority

(a) written details concerning any proposed air handling plant associated with the development including:

- the proposed number and location of such plant as well as the manufacturer's information and specifications;
- the acoustic specification of the plant including general sound levels and frequency analysis under conditions likely to be experienced in practice
- and the intended operating days and times.

(b) calculations showing the likely impact of noise from the development;

(c) a scheme of works or such other steps as may be necessary to minimize the effects of noise from the development;

(d) The development shall not commence until written approval of a scheme under (c) above has been given by the Local Planning Authority. All works forming part of the scheme shall be completed before any of the dwellings is first occupied.

Reason: To protect future residents of the site and the occupants of nearby residential properties from noise

### **Construction phase - CEMP**

No development shall take place until details of a scheme (Construction Method Statement) to control the environmental effects of the demolition and/or construction work has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:-

- (i) the control of noise
- (ii) the control of dust, smell and other effluvia
- (iii) the control of rats and other vermin
- (iii) the control of surface water run-off
- (iv) the proposed method of piling for foundations (if any)
- (v) proposed construction and demolition working hours
- (vi) hours during the construction and demolition phase when delivery vehicles, or vehicles taking materials, are permitted to enter or leave the site.

The development shall be carried out in accordance with the approved scheme.

REASON: In the interests of the amenities of the area.

### **Construction Phase – Working Hours**

No work relating to the development hereby approved, including works of demolition or preparation prior to building operations, shall take place other than between the hours of 07:30 and 18:00 Monday to Friday and 08:30 to 13:00 Saturdays and at no time on Sundays or Bank or National Holidays

Reason: To protect the occupiers of neighbouring properties from noise and disturbance outside the permitted hours during the construction period

### **Air Quality**

The Stuart Michael Associates report Ref: 6377/AQA Sept 2023 considers emissions from road traffic on future receptors and emissions from construction on existing receptors and concludes that satisfactory conditions for the future users will be achieved and there is assessed to be an imperceptible change during the operational phase due to the development.

The impact on surrounding residents and businesses during the construction phase will potentially be high. Mitigation is proposed during the construction phase and a CEMP required to manage environmental impacts.

### **Land Affected by Contamination**

According to our records there are historic commercial and industrial land uses on the application site including a former iron works, brewery, garage and builders yard. Such land uses have the potential to cause contamination which could pose an unacceptable risk to the proposed end users.

Part of the proposed use is residential and therefore sensitive. In accordance with the National Planning Policy Framework (NPPF) 2021 the applicant will be required to carry out a contamination risk assessment of the site followed by remediation and validation works if found to be necessary to ensure the site is made suitable for use.

A Ground Investigation Report dated September 2023 by soiltechnics has been submitted with the application. This makes reference to a Preliminary Risk Assessment Report (Ref: STR4882-P01) for the application site also written by soiltechnics which has not been provided as part of this application. Very limited information from this report has summarised in the current GIR and so this report must also be submitted to the LPA as supporting information for the application.

The submitted GIR report states investigations have not revealed any evidence of significant soil contamination at the application site that would present a risk to the proposed end users although it is acknowledged there are large areas of the site that have not been investigated due to the presence of existing buildings on site and restricted access. It is stated that the application site will be entirely covered in hardstanding thus mitigating exposure to any potential contamination that might be present on the site and so the only potential pathways of exposure for future users of the site are the inhalation of hazardous ground gases and vapours. No elevated concentrations of hydrocarbons or methane have been recorded. An elevated concentration of carbon dioxide was recorded on one occasion which requires further investigation and monitoring to be carried out to adequately characterise the gas regime at the site and whether gas protection measures are required. No further soil sampling or testing is proposed unless visual or olfactory evidence of contamination is found during redevelopment.

I agree that further gas risk assessment is required at the site. The ground conditions at the site appear to be quite variable so this needs to include installation of additional monitoring wells at the site and not just further monitoring visits as there are large parts of the site where no wells have been installed and therefore the gas regime is not known. I do not agree that further soil investigation and testing is not required unless visual or olfactory evidence of contamination is found during redevelopment. It has not been made clear where all the identified potential sources of contamination are on the application site in relation to the exploratory hole locations or proposed site layout. It is therefore not clear whether all areas of possible hydrocarbon contamination for example have been adequately investigated or at all. Where was the former garage use which has been identified on the application site? Has this part of the site been tested for hydrocarbons? If not, are buildings proposed in this area which could be vulnerable to possible hydrocarbon vapour ingress and therefore need remediation or vapour protection installed?

**I believe further targeted investigation, testing and monitoring is required across the site but it would be possible to require this by condition. Should the application be granted I would therefore recommend inclusion of the following condition to ensure a suitable and sufficient assessment of potential contamination is carried out at the application site to ensure it is suitable for use or can be made suitable for use.**

*Unless otherwise agreed by the Local Planning Authority, site preparation and construction, other than that required to be carried out as part of an approved scheme of remediation, must not commence until conditions 1 to 4 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 4 has been complied with in relation to that contamination.*

### **1. Site Characterisation**

*Following demolition and site clearance further investigation and risk assessment must be completed to assess the nature and extent of any contamination across the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:*

- (i) a survey of the extent, scale and nature of contamination;*
- (ii) an assessment of the potential risks to:*
  - human health,*
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,*
  - adjoining land,*
  - groundwaters and surface waters,*
  - ecological systems,*
  - archeological sites and ancient monuments;*
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).*

*This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.*

### **2. Submission of Remediation Scheme**

*A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. 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.*

### **3. Implementation of Approved Remediation Scheme**

*The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.*

*Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.*

### **4. Reporting of Unexpected Contamination**

*In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority.*

*Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.*

**Reason (common to all):** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

### **Lighting**

Details of floodlighting and other externally mounted lighting of the site shall be submitted to and approved in writing by the local planning authority. The lighting shall be installed, maintained and operated in accordance with the approved details unless the local planning authority gives its written consent to the variation.

Reason: to protect residential amenity

### **Informative – Construction / Demolition Noise**

The attention of the applicant is drawn to the requirements of Section 60 of the Control of Pollution Act 1974 in respect of the minimisation of noise on construction and demolition sites. Application, under Section 61 of the Act, for prior consent to the works, can be made to the Environmental Quality Team Manager.

### **Informative - Health and Safety/Food**

The proposed use is one which will need to comply with the requirements under the Health and Safety at Work etc. Act 1974, and associated Regulations, this will extend to ensuring the health, safety and welfare of those that may be affected by the activities, such as visitors to the site as well as those that share facilities such as communal entrances etc. The tenants as well as the landlord where they also have control, such as shared areas, must ensure they assess the risks associated with their operation and put controls in place as necessary to ensure the health, safety and welfare of users/visitors of the premises. Further information can be sought by either visiting the Health and Safety Executive's website, or by contacting the PPP Commercial Team on [insert details of relevant EH contact]

### **Informative - Commercial team (Food premises registration etc)**

Any business that uses the catering unit is required to register or maintain their registration with the Local Authority under EC Regulations 852/2004. The Proprietor of a new business is required to register with the Public Protection Partnership, Commercial Team 28 days before the business opens.

The proposed business will be required to comply with the EC Regulations 852/2004 and the Food Hygiene (England) Regulations 2006 (if relevant), the Health and Safety at Work etc. Act 1974 and related Regulations, including LPG storage and use.

Further information is available by contacting [EHadvice@westberks.gov.uk](mailto:EHadvice@westberks.gov.uk) .

### **Heat pump informative**

The installation of an air source heat pump (ASHP) will only be classed as permitted development if it is compliant with the Microgeneration Certification Scheme Planning Standards (MCS) and we advise the applicant to ensure that this is the case. The applicant should be aware that even ASHPs that are compliant with the MSC scheme still have the potential to adversely impact those nearby.

The Chartered Institute of Environmental Health and the Institute of Acoustics have issued a briefing note with advice for those who are considering installation of a ASHP, <https://www.cieh.org/media/7539/heat-pumps-briefing-note.pdf>. There is also guidance for more specifics for installation requirements which can be found here <https://www.planningportal.co.uk/permission/common-projects/heat-pumps/planning-permission-air-source-heat-pump> . Information about the MCS scheme can be found at <https://mcscertified.com/> and the relevant standards at <https://mcscertified.com/standards-tools-library/> .