

From: Tim Croot
Sent: 5 Oct 2021 12:22:40 +0100
To: Planning Services
Subject: Planning application - 20/02167/FL - Demolition of existing building and erection of building to provide commercial floorspace (Class E) at ground floor and accommodation upper

Dear Planning:

Planning application - 20/02167/FL - Demolition of existing building and erection of building to provide commercial floorspace (Class E) at ground floor and accommodation for NHS key workers and students at the upper levels- 50-59 Newborough, Scarborough, YO11 1ET

I understand that this is a re-consultation. I do not have a record of Environmental health (commercial regulation) providing a response to the first consultation in October 2020 and therefore I have provide a full response below.

Having reviewed the above application I have the following comments to make from a commercial regulation perspective.

The following matters of are consideration to Environmental Health (Commercial Regulation).

Noise from commercial premises and deliveries to those premises – affecting proposed residential accommodation

Noise from plant and equipment Noise from demolition and construction – affecting existing residential accommodation in the vicinity

Noise from maintenance of plant and machinery – both existing and any proposed for commercial on the ground floor – affecting residential

Noise between residential units

Odour from any intended commercial unit

Contaminated land due to pre-existing site uses

Light pollution issues

Waste storage

Observations and requirements

Noise

The proposed development is of mixed use involving both commercial and residential developments.

Where new developments could be subjected to noise or indeed when new developments could create noise we will expect a noise impact assessment to be submitted with the planning application.

A noise assessment has been submitted but it does not appear to have considered all of the matters listed below and to take account of our requirements (see proposed conditions).

The noise impact assessment should include, details of a survey of the existing environmental noise in the area and any noise sources being introduced to the area because of the proposed development.

The standards that are expected for residential properties are those indicated in BS8233:2014. It should be noted that we will also make reference to standards set out in the World Health Organisation guidance documents.

We expect developments to have acceptable amenity space for occupants and noise levels for such spaces must not exceed 55dB LAeq,T.

If opening windows (most likely for purge ventilation during the summer months) will negate the acoustic insulation provided by windows leading to noise levels higher than those within BS8233:2014 then extra measures will be required. A suitable mechanical ventilation system will need to be incorporated into the building which must comply with the ventilation requires as stipulated in The Noise Insulation Regulations 1975. We must stress that the use of mechanical ventilation is a last resort. Attenuation should be sought by good acoustic design in the first instance. Account must be taken of the need for thermal comfort and control in the summer months.

The impact of existing and new commercial noise sources should be assessed in accordance with BS414. When noise sources show signs of tonality we require noise levels to be 10dB below background noise level at the nearest receptor location. In instances where the noise source presents no tonality we require the noise level to be 5dB below the background noise level at the nearest receptor location.

In instances where large machinery or plant will be in operation we will require a pre testing noise impact assessment to be undertaken. This will be set as a discharge of condition and will require a further noise impact assessment to be undertaken and submitted for consideration. It is likely that any such condition will also stipulate maintenance requirements for the operation lifespan of the equipment.

Noise is a key consideration at the planning stage and statutory nuisance investigations after implementation are a last resort only. This method will not be intended as a failsafe and we stipulate that good acoustic design at the outset is key.

I would like to update you with our approach to noise when consulting on planning applications. Environmental Health will now be using the ProPG guidance (Professional Planning Guidance on Planning and Noise) May 2017 as our criteria and standardised assessment document when we make comments on new residential development. This document provides a set of criteria based on good acoustic design to ensure the development is of high quality and still refers to the NPPF.

“Good acoustic design is not just compliance with recommended internal and external noise exposure standards.

Good acoustic design should provide an integrated solution whereby the optimum acoustic outcome is achieved, without design compromises that will adversely affect living conditions and the quality of life of the inhabitants or other sustainable design objectives and requirements”

The Background noise levels for a particular site would have to be established by measurement over a representative period. Where appropriate the wind direction during the survey should be considered, e.g. where there is a busy road in the vicinity that could affect the Background Noise levels.

For commercial premises:

A full a complete noise assessment report considering all of the potential noise sources described above. The noise report should be undertaken to a standard described in BS 4142: 2014.

We apply the following noise standards:

Guidance - Noise criteria –

Steady Plant noise

Assuming the plant is emitting steady noise levels, whether it cycles on and off or not, we expect that the operational noise levels, at the times of operation, should meet the following standard at the nearest sensitive location.

· The LAeq, on is at least 10 dB below the minimum Background (LA90, 1hour); or

A sensitive location could be an amenity space for daytime or the proximity of a bedroom window for nighttime.

e.g. -

For odour control:

Odour from commercial kitchens

Odour from ventilation systems on commercial kitchens

The applicant must undertake an assessment. A suitable assessment is given on page 30 of the Heating and Ventilating Contractors Association Guidance DW/172 – “For Kitchen Ventilation System”.

Deliveries

Deliveries to or collection from the premises shall not take place before 08:00 or after 20:00 on any day.

– Not this is to protect amenity for nearby dwellings.

Noise control -Construction

1. All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Council, shall be carried out only between the hours of :

8.00am and 6.00pm on Mondays to Fridays

9.00am and 1.00pm Saturdays

and at no time on Sundays and Bank Holidays

2. The best practicable means, as defined in section 72 of the Control of Pollution Act 1974, to reduce noise to a minimum shall be employed at all times

3. All plant and machinery in use shall be properly silenced and maintained in accordance with the manufacturers' instructions
4. All compressors shall be sound reduced models, fitted with properly lined and sealed acoustic covers, which shall be kept closed whenever the machines are in use. All ancillary pneumatic percussive tools shall be fitted with mufflers or silencers of the type recommended by the manufactures.
5. All machines in intermittent use shall be shut down during intervening periods between work, or throttled down to a minimum. Noise emitting equipment, which is required to operate continuously, shall be housed in suitable acoustic enclosures.
6. Items of plant and equipment shall be maintained in good condition so that extraneous noise from mechanical vibration, squeaking or creaking is reduced to a minimum.
7. All pile driving shall be carried out by a recognised noise reducing system.
8. Where practical, rotary drills and bursters, actuated by hydraulic or electric power shall be used for excavating hard material
9. In general, equipment for breaking concrete and the like, shall be hydraulically actuated.
10. 'BS 5228 Noise Control on Construction Sites' should be referred to for guidance in respect of all work carried out by the developer, their main contractor and any sub contractors.
11. Any emergency deviation from these conditions shall be notified to the Council without delay
12. Any planned deviations from these conditions for special technical reasons, shall be negotiated with Council at least 14 days prior to the commencement of the specific work.
13. Permissible noise levels are not specified at this stage.

Dust control- Construction

1. All efforts shall be made to reduce dust generation to a minimum
2. Stock piles of materials for use on the site or disposal, that are likely to generate dust, shall be sited so as to minimise any nuisance to residents or neighbouring businesses. Materials for disposal shall be moved off site as quickly as possible.
3. Water sprays shall be used, as and when necessary, to reduce dust from particularly "dusty" activities or stock piles.

Noise between residential units

- Prior to the proposal being brought into use, a scheme to ensure that the internal sound insulation of the separating walls and floors between the Apartments and the reverberation in the

common parts will comply with current Building Regulation Standards shall be submitted to Planning Authority for approval.

- Prior to the proposal being brought into use a scheme to ensure that noise and vibration problems from any of the following services, where appropriate, will be avoided shall be submitted to Planning Authority for approval..
 - o Mechanical ventilation systems
 - o Ventilation extract units
 - o Power showers
 - o Macerators (such as “Saniflo” systems)
 - o Self-closing Fire Doors

LIGHTING

1. A scheme for external lighting at the site shall be submitted and agreed prior to commencement of development. All fixed lights shall be fitted with fully adjustable hoods to minimise glare and light pollution

If within a period of 12 months following the first use of agreed lighting scheme the Planning Authority requires the alignment of the lights to be adjusted and/or additional hoods or shields to be fitted, this shall be carried out in accordance within 7 days of official notification

Contaminated Land

The applicant has submitted a contaminated land report and it has highlighted the issue of asbestos within the fabric of the building. A full and complete assessment including method statement for how to mitigate during demolition and control of the asbestos in terms of exposure to the public and workers must be presented.

Waste storage

It is considered that insufficient detail has been provided in relation to the storage of waste and waste recycling facilities. Suitable and sufficient refuse storage accommodation must be provided and approved in writing by the Local Planning Authority.

Storage of Waste

It is considered that insufficient detail has been provided in relation to the storage of waste and waste recycling facilities. Suitable and sufficient refuse storage accommodation must be provided and approved in writing by the Local Planning Authority.

In respect to the above observation, I would like to propose the following conditions:

Proposed conditions:

Noise conditions:

Sound Insulation (including ventilation)

Prior to any above ground development, the applicant shall submit to, for approval in writing by the Local Planning Authority, details relating to a scheme to protect the proposed development from noise due to transport sources which shall be implemented before any part of the accommodation hereby approved is occupied, unless the Local Planning Authority otherwise agrees in writing.

The scheme shall ensure the indoor ambient noise levels in living rooms and bedrooms meet the standards within BS 8233:2014. Internal L_{Amax} levels should not exceed 45dB more than ten times a night in bedrooms. Relaxed noise levels will be considered if it can be shown that good acoustic design has been implemented and all steps have been taken to achieve the non-relaxed noise levels in BS8233:2014.

Where opening windows raises the internal noise levels above those within BS8233, other methods of ventilation/attenuation will have to be implemented.

Passive systems and rates will be considered, however, evidence that overheating will not occur will need to be provided in the form of a SAP assessment (other overheating assessments can be provided but will need to be agreed in writing by the local planning authority such as a TM59 assessment) conducted with windows closed, curtains/blinds not being used, showing the required ventilation rates to ensure that overheating will not occur. Details must be provided of the ventilation system to be installed and to demonstrate that it will provide the ventilation rates shown in the assessment.

Mechanical ventilation can be installed, with ventilation rates required to provide 4 air changes per hour to habitable rooms.. However, mechanical ventilation should only be used as a last resort, once all other noise mitigation measures have been implemented (good acoustic design, orientation of sensitive rooms, bunds, noise barriers, passive systems or acoustic louvres).

Outdoor amenity areas should meet the 55dB WHO Community Noise Guideline Level. A slight relaxation of this level (up to 3dB) will be considered, if it can be demonstrated that all reasonable steps have been taken to reduce the level as much as possible, (such as noise barriers, shielding, good acoustic design etc). If outdoor amenity areas cannot comply, then it should be shown through measurements that a suitable place is available within 5 minutes' walk from the development that complies with the amenity noise level.

Reason – to protect the occupants of the new development from noise disturbance.

Additional:

New Plant:

Prior to any above ground development the applicant shall submit to, for approval in writing by the Local Planning Authority, details relating to a scheme to mitigate the noise from new plant and

equipment. The impact of new plant and equipment should be assessed in accordance with BS4142:2014. When noise sources show signs of tonality we require noise levels to be 10dB below background noise level at the nearest receptor location. In instances where the noise source presents no tonality we require the noise level to be 5dB below the background noise level at the nearest receptor location.

Reason – to protect the occupants of the new development from noise disturbance.

Commercial noise:

Noise from nearby existing commercial operations:

Prior to any above ground development the applicant shall submit to, for approval in writing by the Local Planning Authority, details relating to a scheme to mitigate the noise from nearby commercial activities, deliveries, plant and equipment, to ensure that there will be no adverse impact to future residents. Assessment for noise from commercial operations must be in accordance with BS4142. Indoor ambient noise levels in living rooms and bedrooms from commercial noise sources must be 10dB below the standards within BS 8233:2014 and L_{Amax} levels must not to exceed 40dB internally with windows closed.

The noise report must include details regarding reduced operating schedules in relation to Covid and consider what additional operations will take place under normal working activities and the effects this will have on noise levels. Consideration must be given to potential commercial operating hours and likelihood of commercial expansion.

Reason – to protect the occupants of the new development from noise disturbance

Noise from nearby existing commercial operations:

Prior to any above ground development the applicant shall submit to, for approval in writing by the Local Planning Authority, details relating to a scheme to mitigate noise from nearby commercial activities, deliveries, plant and equipment, to ensure that there will be no adverse impact to future residents. Assessment for noise from commercial operations must be in accordance with BS4142.

Details must be provided to show the implementation of mitigation measures and provide evidence that façade noise levels (that incorporate habitable rooms) would not exceed 5dB above the background noise level (Adverse impact), from nearby existing commercial operations.

Indoor ambient noise levels in living rooms and bedrooms from commercial noise sources must be 10dB below the standards within BS 8233:2014 and L_{Amax} levels must not to exceed 40dB internally with windows closed.

The noise report must include details regarding reduced operating schedules in relation to Covid and consider what additional operations will take place under normal working activities and the effects this will have on noise levels. Consideration must be given to potential commercial operating hours and likelihood of commercial expansion.

Reason – to protect the occupants of the new development from noise disturbance

Noise from construction works:

All noisy works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Council, shall be carried out only between the hours of:

8.00am and 6.00pm on Mondays to Fridays
9.00am and 1.00pm Saturdays
and at no time on Sundays and Bank Holidays

If noisy works must be carried out beyond these times, then an application must be made for consideration by environmental health under the Control of Pollution Act 1974 (Section 61 application).

Noise and vibration must be kept to a minimum by methods of work that conform with the 'Code of Practice for Noise and Vibration Control on Construction and Open Sites' (See BS 5228-1:2009+A1:2014, and EC and UK Noise Legislation, as applicable).

At all times the best practicable means as defined in the Act must be employed to reduce noise. Only the quietest plant or machinery should be used, and all equipment should be maintained in good mechanical order and fitted with appropriate silencers, mufflers or acoustic covers. Stationary noise sources should be sited as far away as possible from neighbouring properties. Acoustic barriers consisting of site materials such as bricks, earth mounds or proprietary types should be constructed when noise cannot be sufficiently reduced by careful siting of noise sources.

Reason – to protect residents from noise from construction works beyond reasonable times

Pre commencement condition for plant/equipment:

Before the development hereby approved is brought into use, a manned measured noise survey must be carried out and a report of the findings submitted to and approved in writing by the Local Planning Authority. The noise survey must include reference to measured background noise level at monitoring locations agreed by the Local Planning Authority. The noise emitted must be measured at 1.0m from the facade of the nearest residential premises to demonstrate that the noise emitted by the combined operation of all external building services plant hereby permitted does not exceed 10db below background noise level at any time when the plant is operating. Measurement parameters must include the LA90, LAeq, LA Max and frequency analysis.

Should the plant fail to comply with this condition at any time, it shall be switched off and not used again until it is able to comply. The use of the equipment must not commence or re-commence until a fully detailed noise survey and report has been submitted to and approved in writing by the Local Planning Authority and approved mitigation measures such as acoustic screening or silencers have been implemented. The plant shall be serviced regularly in accordance with manufacturer's instructions and as necessary to ensure that the requirements of the condition are maintained at all times. Should the plant and equipment fail to comply with this condition at any time, it shall be switched off and not used again until it is able to comply.

Reason – to protect the occupants of the new development from noise disturbance

Pre Occupation Noise Testing:

Pre-Completion Testing

Sound Insulation pre occupation testing

Prior to the first occupation of the development, pre-completion testing must take place which shows compliance with the following:

Noise tests must show that indoor ambient noise levels in living rooms and bedrooms meet the standards within BS 8233:2014. Relaxed noise levels in BS 8233:2014 will not be accepted in living rooms and bedrooms. Internal L_{Amax} levels should not exceed 45dB more than ten times a night in bedrooms. Noise testing must show that outdoor amenity areas comply with the 55dB WHO Community Noise Guideline Level, if outdoor amenity areas cannot comply, then it must be shown through testing that a suitable place is available within 5 minutes walk from the development that complies with the amenity noise level.

A pre occupation testing report must be supplied and approved in writing by the Local Planning Authority. Non-compliance with these levels will require additional mitigation measures to be incorporated into the development prior to the occupation of the development and that additional work shall be submitted to and approved in writing by the Local Planning Authority before the development is occupied.

Reason – to protect the occupants of the new development from noise disturbance.

Mechanical ventilation pre occupation noise testing:

Prior to the first occupation of the development, pre-completion testing must take place which shows compliance with the following:

Noise testing must show that indoor ambient noise levels in living rooms and bedrooms meet the standards within BS 8233:2014 (with the mechanical ventilation system off, on and on maximum boost setting). Relaxed noise levels in BS 8233:2014 will not be accepted in living rooms and bedrooms.

A pre occupation testing report must be supplied and approved in writing by the Local Planning Authority. Non-compliance with these levels will require additional mitigation measures to be incorporated into the development prior to the occupation of the development and that additional work shall be submitted to and approved in writing by the Local Planning Authority before the development is occupied.

Reason – to protect the occupants of the new development from noise disturbance.

Commercial noise levels – Pre occupation Testing:

Prior to the first occupation of the development, pre-completion testing must take place which shows compliance with the following:

Noise testing must show that indoor ambient noise levels in living rooms and bedrooms from commercial noise sources are 10dB below the standards within BS 8233:2014 and L_{Amax} levels do not to exceed 40dB internally with windows closed.

Testing must take place in the properties that would be worst affected by the commercial noise sources, as in the closest property to the noise source. Testing must also take place for a suitable period of time to ensure that the commercial units are in fact operating so representative noise levels can be recorded.

A pre occupation testing report must be supplied and approved in writing by the Local Planning Authority. Non-compliance with these levels will require additional mitigation measures to be incorporated into the development prior to the occupation of the development and that additional work shall be submitted to and approved in writing by the Local Planning Authority before the development is occupied.

Reason – to protect the occupants of the new development from noise disturbance.

Air quality:

Prior to any above ground development the applicant shall submit to, for approval in writing by the Local Planning Authority, an air quality impact assessment to evaluate and assess the following pollutants, PM₁₀, PM_{2.5} and Nitrogen Dioxide. The report must demonstrate potential effects on future

residents from current pollution levels and the resultant effect the proposed development will have on local pollution levels. If the report demonstrates that there will be an increase/impact on pollution levels then mitigation will be required in the form of electric vehicle charging points and the promotion of green travel.

Reason – to protect the occupants of the new development from current pollution levels and to ensure that the development does not increase local pollution levels.

Air quality - Promotion of green travel:

Prior to first occupation of the development, the applicant shall submit to, for approval in writing by the Local Planning Authority, details relating to the promotion of green travel. This should include the provision of cycle storage, and the provision of at least one electric vehicle charging point. Information must be provided to demonstrate that these facilities have been installed.

Reason – to facilitate and encourage the use of green travel.

Odour from kitchen extract system

Details are limited in relation to odour control on the plan and information provided by the applicant, and it appears that grease filters are the only type of filter to be installed. These filters do not control odours.

Some additional form of odour abatement will be required, such as carbon filters to limit the odours released by the extract flu.

It is recommended that a condition requiring odour abatement details are provided prior to building works and operation of the business beginning.

The applicant is advised to adhere to the Defra guidance on the control of odour and noise from commercial kitchen exhaust systems.

Ventilation, Extraction and Odour Control System

The premises shall not be occupied until details of any air ventilation, extraction and odour control systems have been submitted to and approved in writing by the Local Planning Authority. Such details must include the height, position, design and materials of any chimney or extraction vent to be provided in connection with the development.

The proposed system will need to adhere to the Defra guidance on the Control of Odour and Noise from Commercial Kitchen Extract Systems. No part of the development shall be occupied until the facilities have been provided in accordance with the approved details.

Reason.

To protect the amenities of the occupiers of residential accommodation in the vicinity.

Lighting

Prior to installation of external lighting the applicant shall submit to, for approval in writing by the Local Planning Authority, details relating to the external lighting scheme (including vertical lux diagrams which show potential light trespass into windows of nearby residential properties). This scheme must meet the requirements within the Institution of Lighting Professionals guidance notes for the reduction of obtrusive lighting.

Reason –to protect the amenity of existing residential properties in the near vicinity to the development

Contaminated Land

The applicant must undertake a full and complete contaminated land risk assessment to satisfy the following:

Unless otherwise agreed by the Local Planning Authority, development 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

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on 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 (referred to in PPS23 as a validation 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.

5. Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period to be determined and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

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

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 A final list of required conditions not included here will be submitted upon receipt of required information described above.

Regards

Tim Croot
Environmental Health Officer
Commercial Regulation Team
Scarborough Borough Council
Town Hall
St Nicholas St
Scarborough
YO11 2HG

