

KIRKLEES METROPOLITAN COUNCIL

PLANNING SERVICE

UPDATE OF LIST OF PLANNING APPLICATIONS TO BE DECIDED BY STRATEGIC PLANNING COMMITTEE

18 November 2021

Planning Application 2018/92647

Item 9 – Page 13

Hybrid Planning Application for mixed use development - retail/office and 239 residential units (Use Classes C3/A1/A3/B1a). Full Planning permission for the partial demolition of the former Kirklees College, erection of a food retail store with residential above and erection of two mixed use (retail/residential) buildings, alterations to convert grade ii* listed building to offices and creation of vehicular access from Portland Street, New North Road and Trinity Street. Outline application for erection of four buildings mixed use (residential/office) (Listed Building within a Conservation Area)

Former Kirklees College, New North Road, Huddersfield, HD1 5N

The applicant was given the opportunity to comment on their Programme of Urgent Works to the heritage buildings (heritage buildings 1,2 and 3 of the masterplan) within the main agenda at Paragraph 10.130. The applicant has commented that the total sum of £301,000.00 for the Stage 2 works had been omitted and so has been included below:

Clarification of the applicants' Stage 2 Urgent Works

Paragraph 10.131

The second stage of urgent works necessary to arrest the deterioration in the fabric of the Heritage Buildings, which shall comprise (unless otherwise agreed in writing between the Owner and the Council):

- a) Works to make the roof of Building 1, Building 2 and Building 3 weathertight and waterproof through temporary repairs to vulnerable areas including parapet gutter and over hips and ridges;
- b) Works to clear the downpipes and gutters of Building 2 and Building 3 of debris and vegetation.

A detailed and fully costed scheme for the carrying out of the Stage 2 Urgent Repair Works PROVIDED ALWAYS that the reasonable costs of carrying out the Stage 2 Urgent Repair Works shall not be required to exceed the sum of £301,000.00 (three hundred and one thousand pounds).

The Owner shall procure that the Stage 2 Urgent Repair Works are completed in accordance with the approved Stage 2 Urgent Repair Works Scheme not

later than the date being eighteen **18 calendar months** following the date of the Planning Permission

Applicant's Response to Heritage England Consultation Response dated 2/11/2021

The applicant was given the opportunity to comment on the Heritage England comments included within the main agenda at paragraph 10.60 to 10.71. Their response is set out below:

Dear Mr Wordsworth

I am in receipt of your revised officers report and, as discussed, I am writing such that this correspondence can be attached to the report in response to the revised recommendation which is to refuse planning permission for this strategically important development proposal.

You have over the last week or so been furnished with a number of emails and supporting correspondence from Paul Fox of Fox Lloyd Jones in his capacity as Development Manager and it is not my intention to repeat in this correspondence those points which revolve around the crucial viability issues surrounding this project.

I note that the recommendation is to refuse planning permission in the absence of a completed section 106 agreement. As we are all aware, since this application was presented to strategic planning committee in February of this year, we have worked tirelessly with you and your legal team since receipt in April to mid-August and at that point we were, in our opinion (which you agreed), extremely close to agreeing the section 106 agreement having negotiated what we believed to have been wholly acceptable heads of terms.

It would appear from your officer's report that the expectation of the council now is that the principal listed building and two rear wings should be converted and bought back into full reuse as part of a phased development. As you are aware from almost 12 months of negotiations on viability, this is clearly not the case and as evidenced in your previous report to committee back in February, we did not agree to this position as it is simply not possible to fund the full restoration of these buildings as part of the first two phases.

It is important that members are aware that the full amount of contributions associated with this project are to be spent on ensuring the buildings are shored up and made watertight such that any continued deterioration is completely addressed and the buildings will not, therefore, fall into a state of further disrepair. This has and continues to be the case as there are simply no funds available to fully convert these buildings released by the sale of phase 1 to Lidl and phase 2 to a residential developer. Again, it is not my intention to repeat the seriousness of the viability issues suffice to say that we have worked completely transparently and on an open book policy with you as a council and that you have indeed had all the viability appraisals verified by independent assessors who agree there is simply no funds available save for those agreed as part of the contributions attributed to the scheme to ensure the buildings are made watertight and put into a state of repair ready for a sale to market.

You specifically asked whether or not we would like to comment on Historic England's advice which was received on the 2nd of November 2021. Their advice is the same as they advised back in September 2020 which is that they are satisfied the local planning authority can make its own decision on the applications without their further involvement. This, in our opinion, is a very positive response and one where their position has remained unchanged.

Clearly, we will be attending planning committee and whilst I appreciate the protocol at committee is for members not to ask questions but both myself and Paul Fox will be available after my presentation to answer any questions that may be raised. It is agreed this is a complex site made all the more complex by the viability of the project but we must not lose sight of the fact this is a strategic site which is currently recognised by everyone as being an eyesore and our short to medium term plans will significantly enhance and, importantly, preserve the setting and the integrity of the principal listed building and wings by ensuring all the funds that are made available by the 106 contributions will be spent shoring the building up which is as much as we possibly can do in the short term. You are aware we have applied for Brownfield Housing grant aid for a further £500,000 which, once secured, could be spent in addition to the £400,000 on converting the buildings in due course. The full conversion of the buildings at this stage is simply cost prohibitive and cannot be done.

We have attached a simplified note outlining the specific outputs of the proposal along with a corresponding timeline to help reinforce the deliverability and speed with which this can come forward. You have asked for an assessment of the public benefits and we have outlined those in correspondence previously sent to the council and which is now incorporated into your report as appendix 1.

By refusing this application, the principal listed buildings will inevitably fall into further disrepair. It is noted that you wish members to serve an urgent works notice as and when required to preserve the unoccupied listed buildings, but it needs to be understood that the funds required to do the works set out are generated by the Lidl sale.

We have from day one sought to work openly and collaboratively with the council and it is our sole intention to do exactly the same once planning permission has been approved. However, we simply cannot from a viability perspective bring those buildings back into use as part of a phased approach to getting this important strategic site up and running and delivering the significant public benefits set out in appendix one of your report.

As a development team advising the applicants, we appreciate that issues surrounding viability are complex and if members of the planning committee wished to defer the application and have a roundtable session with both yourselves and ourselves to explain in detail the problems associated with the viability, I believe the councillors decision will be based on an informed and measured basis so that all the factors are understood prior to the decision being made.

We feel that, by refusing this application, all the hard work over the last four and a half years will be lost and any significant economic gains I will

disappear which cannot be in the interests of planning and economic growth.

Applicants Additional Information SIMPLIFIED PROPOSAL OVERVIEW

Trinity West – Trinity One LLP

9th November 2021

SIMPLIFIED PROPOSAL OVERVIEW

Trinity West – Trinity One LLP

9th November 2021

Event	Timeline
<ul style="list-style-type: none"> Assume Planning Committee 'approval' on 18th November 	<ul style="list-style-type: none"> s.106 already in advanced form Sign within 4 weeks (pre-end 2021)
<ul style="list-style-type: none"> s.106 signing triggers Lidl contract Dec 2021 allowing the Developer to place agreed Enabling Works contract at a combined cost of £1.65m First £100k of s.106 contributions added to Enabling Works (incl above) contract to be spent on: <ol style="list-style-type: none"> the establishing of a secure site compound around the whole of the Heritage Buildings installing ventilation measures to the Heritage Buildings (including basements) to prevent dry rot outbreaks the repairing or boarding up (with through ventilation) of all windows so as to prevent access (including by birds) works to clear the downpipes and gutters of Building 1 of debris and vegetation The certainty of a planning consent allows formal marketing of uncommitted phases to commence, to coincide with start of on-site works 	<ul style="list-style-type: none"> Subject to contractor mobilisation Start on site Jan/Feb 2022 Six-month programme confirmed Summer 2022 Jan 2022
<p>Enabling Works contract also includes:</p> <ul style="list-style-type: none"> Securing of whole site with contractor's hoarding / security – will bring an end to antisocial behaviour Demolition, asbestos removal + clearance of all formal college buildings Demolition & removal of former nurses' accommodation and additional poor quality to north of site Creation of Development Platform for new Lidl store to commence <u>All</u> previous concerns councillors cited re Lidl store at committee have been addressed and resolved. Immediate commencement of marketing for phases 2 (new build residential) + 3 (listed building phase) 	<ul style="list-style-type: none"> Jan / Feb 2022 Lidl start store construction summer 2022 Jan 2022
<p>On completion of Enabling Works contract:</p> <ul style="list-style-type: none"> Balance of site presented as a cleared and secured regeneration site with Agency boards advertising availability of any remaining phases 	<ul style="list-style-type: none"> Summer 2022

<ul style="list-style-type: none"> Development platform for Lidl store complete + construction of new store commences 	<ul style="list-style-type: none"> Summer 2022 – End 2022
<ul style="list-style-type: none"> Sale of Phase II Residential to 3rd party Developer expected within 6 months Subsequent detailed Planning Application / Reserved Matters anticipated 	<ul style="list-style-type: none"> Target Summer 2022 /Q3 for legals Pre End 2022
<ul style="list-style-type: none"> Invite interest and further dialogue in listed buildings and pursue past interest from NHS for drop-in centre / office use and for retirement living scheme to Phase II. 	<ul style="list-style-type: none"> Jan 2022 – Summer 2022
<ul style="list-style-type: none"> Brownfield Housing Fund (BHF) Grant Aid (£500k) application submitted to WYCA. Determination anticipated Q1/Q2 2022 	<ul style="list-style-type: none"> Summer 2022
<p>Stage 2 Urgent Repair Works</p> <ul style="list-style-type: none"> The landowner will legally commit to additional £300k spend (2nd tranche s.106) on further urgent repair works detailed below: <p>Stage 2 the second stage of urgent works necessary to arrest the deterioration in the fabric of the Heritage Buildings which shall comprise (unless otherwise agreed in writing between the Owner and the Council):</p> <ol style="list-style-type: none"> works to make the roof of Building 1, Building 2 and Building 3 weathertight and waterproof through temporary repairs to vulnerable areas including parapet gutter and over hips and ridges. works to Clear downpipes and gutters of Building 2 and Building 3 of debris and vegetation. <p>The Owner shall procure that the Stage 2 Urgent Repair Works are completed in accordance with the approved Stage 2 Urgent Repair Works Scheme not later than the date being eighteen (18) calendar months following the date of the Planning Permission.</p> <p>N.B. Overage provision agreed in s.106 to pay top up of c.£400k of additional s.106 monies should developer profit exceed 15% on cost.</p>	<ul style="list-style-type: none"> Summer 2023
<ul style="list-style-type: none"> We seek to work closely with KMBC to explore all possible avenues to bring back the retained listed buildings into a beneficial use the town can be proud of, asap. <p>The first important and essential step on this journey is committing to the necessary spend and site works to present the site as a Regeneration + Investment opportunity where something is happening on site, and where planning consent exists.</p>	

Officers Comments

The applicant's comments regarding the limit to their Phase 2 Urgent Works viability of the scheme is not the reason the application has returned to this Committee. The viability of the applicant's scheme has not been reappraised and the viability section (paragraph 10.109-10.132) included in the main agenda is the same as reported in February 2021.

A significant public benefit of the scheme that was presented to that Committee was that the heritage buildings (Listed Buildings 1,2 and 3) were to be converted and renovated. Officers believed that this would and should be to an advanced stage. However, the applicant has confirmed that they cannot agree to a phasing plan that includes any works to convert the listed buildings beyond their programme of Urgent Works.

The public benefits associated with the restoration of the heritage buildings cannot now be secured and therefore, in the view of officers, the public benefits do not now outweigh the less than substantial harm to heritage assets caused by this scheme. Consequently, the proposal does not comply with Policy LP35 of the Local Plan or paragraphs 200 and 202 of the NPPF. The officer's recommendation remains unchanged.

Planning Application 2021/92528

Item 10 – Page 63

Erection of retail development, associated parking, servicing areas and landscaping.

Land off, Bankwood Way, Birstall Retail Park, Birstall, Batley, WF17 9D

AMENDED RECOMMENDATION

DEFER the application to enable officers to undertake further assessment of the retail impacts of the proposed development.

Officers have recently received a late representation on behalf of Tesco Stores Limited objecting to this planning application and seeking a deferral from this agenda to enable them, and other third parties, sufficient time to make further representations.

The representation on behalf of Tesco is summarised as follows:

- Independent retail assessment by Nexus Planning on behalf of the Local Planning Authority is not in the public domain. Tesco and other third parties have not had sufficient opportunity to make representations on this document, which Officers have relied on extensively within the assessment.
- The applicant has failed to undertake a robust health check analysis to demonstrate the health of the existing town centres.
- The scope for disaggregating the proposed elements of the scheme into their constituent parts, in order to undertake sequential site assessment, has not been properly considered. Several sites in the applicant's sequential assessment have been rejected on the basis that they are not able to accommodate all elements of the proposed development. These sites should be revisited applying disaggregation.
- The catchment area for the purposes of sequential testing should be extended. The NPPF requires applicants and local planning authorities to demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored. Flexibility over the extent of the catchment that would serve the proposed development must reasonably be a matter that is

caught by this requirement. The applicant's sequential assessment is flawed in that it does not consider any potential opportunities within certain other nearby centres that might be 'more accessible' or 'better connected' than the application site, in line with the NPPF. Centres that fall within the likely catchment of the proposal, and potential opportunities therein, have been inappropriately ignored.

- The committee report does not provide a robust assessment of the Local Plan Priority Employment Areas Policy because it does not conclude whether or not the proposal would conflict with established employment uses, as set out in the first limb of Policy LP8.

Officer Response:

As set out in the representation, the Local Planning Authority instruct Nexus Planning to provide advice on the retail aspects of the application. In light of the issues raised within the representation, with particular regard to the retail assessment, and given its late submission, Officers recommend that this application is deferred to allow these matters to be considered in full before bringing the item forward for determination.

Officers can provide an initial response regarding the assessment of Policy LP8:

The report identifies that the site is within a Priority Employment Area (PEA) in the Local Plan. The PEA includes the application site and the existing offices to the southwest as well as a separate and much larger swathe of land to the west of the site. The nearby cinema, food outlets, gym and the retail stores within the Junction 27 Retail Park are not part of the PEA.

Local Plan Policy LP8 seeks to safeguard employment land and premises. It states that 'proposals for development or redevelopment for employment generating uses in Priority Employment Areas will be supported where there is no conflict with the established employment uses in the area'.

Employment uses are defined within the Local Plan. These comprise general industry (use class B2); storage and distribution (use class B8); and offices, research and development of products and processes and industrial uses that can be carried out in a residential area (use class E(g)).

The Local Plan also identifies employment generating uses, which include the above uses, as well as enterprises which provide jobs, such as retail, hotel, assembly and leisure.

Within the immediate vicinity of the site are a range of established employment uses and employment generating uses, including offices, retail and leisure. Within the wider PEA allocation there are some general industry and storage and distribution uses amongst other types of business.

Officers are satisfied that that the proposed development would not conflict with the established employment uses in the area. The nature of the proposed use is compatible with the established make-up of the area and the development would not introduce a use that would conflict with the operation of existing businesses.

Consultation response – The Coal Authority

The Coal Authority has assessed the additional information provided by the applicant and has withdrawn its objection, subject to the imposition of conditions.

Conditions are recommended requiring a scheme of further intrusive site investigations, remediation works/mitigation measures to address land instability arising from coal mining legacy (as may be necessary) and validation of the completion of the remediation works/mitigation measures.

Councillor comments

Councillor Mark Thompson has commented on the applicant's proposed pedestrian improvement plan.

- *Why drop kerb and tactile paving right on the roundabout, this roundabout is so busy I would have thought discouraging pedestrians to cross there would have been the priority.*
- *The plan to install another set of pedestrian lights! Seems to be overkill on a length of road no longer than 800 mtrs + no one goes down to those lights as there is no obvious ingress or egress from either side of the road to where those lights are or going to be, please explain.*
- *Wouldn't an overhead walkway be more beneficial to pedestrians and to keep the flow of traffic going on what is one of the busiest stretches of road in Kirklees?*
- *With all the additional food halls and takeaways being completed to the Showcase side of the retail park and the, sometimes, overwhelming footfall at the other side of the A62 why would we interfere so much with flow of traffic i.e. drop kerbs and additional lights.*

Officer response:

The proposed dropped crossings/tactile paving are, to some extent, a legacy of the previous extant permission 2018/92563 for the erection of retail units on the site, which secured funding for a series of similar measure across the wider retail park.

With regards to the Gelderd Road/Holden Ing Way/Bankwood Way roundabout, the drop crossings on the northwest, southwest, and southeast arms of the roundabout are existing, the intention being to upgrade these existing facilities with the installation of tactile paving. With regards to the northeast arm of the roundabout, there are currently no pedestrian crossing facilities on this arm.

It is acknowledged that the installation of a crossing facility on the northeast arm of the roundabout may be detrimental to highway safety. This arm of the junction is controlled by part time signals, which could lead to misunderstanding for pedestrians trying to cross at this point. Nevertheless, the scheme to implement these works would be designed and constructed by the Highway Authority and would be subject to an independent Road Safety Audit (RSA). If the RSA raised safety issues with this element of the scheme which could not be satisfactorily addressed, then it would be omitted from the scheme.

Discussions during the application process identified A62 Gelderd Road as a significant barrier to pedestrian movement between the western and eastern areas of the retail park and it was considered that the provision of a signalised pedestrian crossing point would be of strategic benefit. Assessment indicates that a crossing can be accommodated and has been located to connect with the pedestrian route serving the western retail area (Currys PC World etc.) and the northeast bound bus stop, enabling passengers alighting at this stop to safely cross A62 Gelderd Road to access the retail (including the application site) and leisure facilities on the eastern side of Gelderd Road.

In terms of the suggestion of a footbridge, it is considered that a footbridge would provide similar pedestrian benefits to a signalised crossing, however, it would require a significant land footprint, particularly to construct a bridge that could meet the needs of all potential users (i.e. including ramped access). This is a heavily developed area and land is not readily available to accommodate a footbridge. Furthermore, a bridge would be extremely cost prohibitive and beyond what could be reasonably justified to mitigate the current development proposals.

Ecology

The applicant has submitted an updated Biodiversity Metric calculation which reflects the changes that have been made to the soft landscaping on the site, namely the provision of additional tree and hedgerow planting. This does not significantly affect the off-site contribution that has been sought to deliver a biodiversity net gain of 10%.

Climate change

It is proposed to have solar PV panels on the roof of the Lidl store, which would generate approximately 25% of the store's electricity requirements per year. The applicant estimates that this would reduce carbon emissions by at least 44 tonnes per year. A roof layout plan and specification for the proposed PV panels has been submitted.

The provision of PV panels provides an environmental benefit which aligns with the local and national climate change agenda.

Report clarifications and corrections

Paragraph 3.5: The proposed access from Woodhead Road would serve both stores.

Paragraph 3.6: The latest proposals are for 174 car parking spaces, not 175. This includes 10 accessible spaces, 9 parent and child and 2 electric vehicle charging spaces.

Paragraphs 3.6 & 10.47: A ramped footpath link from Woodhead Road is not being provided, however, there is pedestrian access from Woodhead Road via pavements.

Paragraph 3.8: It is proposed to have two new substations within the site rather than relocating the existing substation. The new substations are adjacent to Woodhead Road and Bankwood Way. These do not give rise to any significant implications.

Planning Application 2019/94165

Item 11 – Page 85

Demolition of existing mills and associated structures, erection of five commercial units and associated yard works

Butt End Mills, Chadwick Lane, Lower Hopton, Mirfield, WF14 8PW

The applicant has submitted revised floor plans which show a partial mezzanine floor within each of the proposed units. The mezzanine floors would provide additional space to be used in connection with the businesses but would double up as a safe refuge in the event of a severe flood event.

The Environment Agency (EA) has provided further comments on the application.

The EA have recommended that the provision of the proposed mezzanine floors is secured by condition.

The EA also acknowledge a request from Kirklees Lead Local Flood Authority for the development to provide a dry access route for the 1% plus climate change event. A condition requiring an emergency access egress plan has been recommended by the EA. The EA have commented that if any land raising or use of stilts or voids are proposed to deliver the dry egress route then the EA must be reconsulted, as this may affect flood risk mechanisms, or flow routes to the area.

Based on the above, the following additional conditions are recommended:

18. Provision and retention of the proposed mezzanine floors
19. An emergency access egress plan for pedestrians

Planning Application 2021/93368

Item 12 – Page 103

Redevelopment of market with addition of mezzanine floor

Dewsbury Market, Cloth Hall Street, Dewsbury, WF13 1QE

The applicant has submitted a set of revised plans which make some very minor changes to the site layout, floor plans and elevations.

The main changes are summarised as follows:

- Some of the outdoor stalls have been relocated slightly further to the west to achieve the required buffer from the culvert to the north-east of the site. This change was necessitated following receipt of an updated culvert survey. The change does not affect any Yorkshire Water infrastructure.
- Slight relocation of external doors to the semi-covered market and Market Hall
- Internal layout amendments to the general arrangement of the semi-covered market and Market Hall (including to the stalls, toilet block and substation)
- The lowering of the mezzanine finished floor level in the Market Hall

The changes are all very minor in nature and do not affect the original assessment of the application.

The applicant has also provided a plan showing indicative proposals for the relocation of the existing disabled parking spaces and taxi rank that would be affected by the proposals. As mentioned in the committee report, the plan shows replacement disabled parking spaces within Whitehall Way car park and a replacement taxi rank on Whitehall Way close to the Station Hotel. Final details can be secured by condition. The following additional condition is therefore recommended:

23. Scheme for the replacement of the disabled parking and taxi bays affected by the proposals

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