

## KIRKLEES METROPOLITAN COUNCIL

### PLANNING SERVICE

#### UPDATE OF LIST OF PLANNING APPLICATIONS TO BE DECIDED BY

#### STRATEGIC PLANNING COMMITTEE

2 NOVEMBER 2023

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Planning Application 2021/92734

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**Improvement and widening of the A629 to include junction improvements, re-positioning of footways and footway improvements, pedestrian crossing provision, the alteration, demolition and erection of walls, construction of retaining walls, erection of fencing, hard and soft landscaping to include the removal of trees and replacement planting, replacement street lighting, change of use of land to highway and change of use to and formation of car park on land adjoining 103 Halifax Road (within a Conservation Area)**

**Various Locations - A629 Halifax Road, Huddersfield**

#### Air Quality

Policy LP51 of the Kirklees Local Plan states that *'Development will be expected to demonstrate that it is not likely to result, directly or indirectly, in an increase in air pollution which would have an unacceptable impact on the natural and built environment or to people. Proposals that have the potential to increase local air pollution either individually or cumulatively must be accompanied by evidence to show that the impact of the development has been assessed in accordance with the relevant guidance. Development which has the potential to cause levels of local air pollution to increase must incorporate sustainable mitigation measures that reduce the level of this impact. If sustainable measures cannot be introduced the development will not be permitted.'*

The applicant's Air Quality consultant, Arcadis, has provided a statement dated 26<sup>th</sup> October which responds to multiple points within KC Environmental Health's critique of the revised Air Quality Impact Assessment (AQIA) following removal of the Edgerton Road/Blacker Road (Area A) intervention from the package of Phase 5 works along the A629 corridor.

The removal of Area A, as a form of mitigation required by LP51, incurs a slight adverse impact at Receptor 16 which is situated within Air Quality Management Area 6 (AQMA6) located at the Edgerton Road/Blacker Road junction. Consequently, KC Environmental Health have reviewed the latest statement from Arcadis and have provided a formal consultee response which identifies that the contents of the statement should be provided within a revised AQIA. KC Environmental Health advise that the revised AQIA can be secured via pre-commencement condition as negotiations are on-going in respect of the possibility of securing appropriate financial mitigation to offset the harm incurred at AQMA6, especially in the context of the removal of Area A as a form of material mitigation for other material planning considerations (i.e. for tree loss and heritage character and the associated impact on visual amenity). The proposed AQIA condition is as follows:

21 Prior to the commencement of development, a full Air Quality Impact Assessment shall be submitted to and approved in writing by the Local Planning Authority. The assessment shall:

- determine the impact that the development will have on air quality (taking into consideration any cumulative impact from other local developments) and if necessary provide a suitable mitigation plan
- include a dust mitigation plan which should consider dust arising from all construction related activities and any necessary mitigation measures to control dust during construction.

**Reason:** For promoting sustainable development and transport and conserving the natural environment in accordance with parts 2, 9 & 15 of the NPPF and LP20, LP24, LP47, LP51 of the Local Plan

#### Representations Received Following Publication of the Committee Report

Following publication of the Committee Report on Thursday 26<sup>th</sup> October 2023, 4 representations have been received, the content of which are summarised below:

- Concern in respect of the noise impact and privacy loss at 121 Yew Tree Road;

**Officer Response:** Adequate noise mitigation required for 121 Yew Tree Road, following the removal of 123 Yew Tree Road, is identified within the submitted Noise Impact Assessment. As the proposal is for a highway improvement scheme, the mechanism for securing the appropriate noise mitigation is through the Noise Insulation Regulations 1975 which lie outside the remit of the Town and Country Planning Act 1990. A foot note would be added to any decision notice to remind the applicant of their obligations in respect of the noise mitigation required. In any event, this is responded to already within the Committee Report in paragraphs 10.103 to 10.104.

**In respect of residential amenity concerns cited by the representor, these are again responded to within paragraph 10.96 of the Committee Report**

- Removal of mature trees within Area D and former curtilage of 123 Yew Tree Road

**Officer Response:** In respect of residential amenity concerns cited by the representor, these are again responded to within paragraphs 10.70, 10.75 and 10.96 of the Committee Report

- Bat surveys and noise level measurement not undertaken correctly;

**Officer Response:** The assertions made by the representor were not qualified by any evidence or any points relating to a specific error within the bat surveys or noise surveying. However, it should be noted by Committee that no objections have been received from the Council's noise specialist and ecologist.

- Representor objects on the basis that they prefer the status quo including the retention of the trees along the route;

**Officer Response:** These views are noted by Development Management officers.

- Support for the retention of 88 trees in Area A, however objection to the loss of 38 trees in the context of the low journey time saving and lack of demonstration that the scheme will save carbon or improve air quality;

**Officer Response:** These views are noted by Development Management officers and are robustly discussed within the Committee Report which has arrived at the conclusion of supporting approval of the proposed development on the basis of applying the planning balance to the benefits and disbenefits of the proposed development.

- Citation that the trees in Area B are not going to be replaced, therefore 18 trees will not be mitigated. The saplings in Area D will take 30 years to reach maturity and therefore do not replace the ones lost. Loss of trees at Area C will harm bats with no mitigation proposed;

**Officer Response:** The assertion in respect of replacement planting within Area B is incorrect, replacement planting is proposed to replace trees planned for removal in this location.

In respect of Area D, the majority of trees planted will be saplings, however the landscaping plans also indicate the planting of larger specimens for a more immediate effect, especially within the former curtilage of 123 Yew Tree Road.

As concerns Area C, the submitted Ecological Impact Assessment (EclA) for Area C states the following in respect of impacts on bats: *'The commuting and foraging habitats to be removed to facilitate the Development (areas of semi-natural broadleaved woodland and scrub) comprise a very small portion of available habitat within the wider area, and areas of woodland will be retained within the site. As such, no significant impacts are anticipated as a result of the Development.'*

#### KC Environmental Health Response

For the purposes of openness in respect of the above comments relating to Air Quality, it is considered appropriate by Development Management to publish the KC Environmental Health response alongside the Committee Update owing to the delay that can be incurred through the public website being updated with new documentation overnight at 00:00 (midnight). The Environmental Health response is as follows:

#### **Air Quality**

*Previously we commented on a revised Air Quality Assessment by Arcadis (dated: March 2023) (no reference) based on the amended DS3 proposals. At that time, we raised several points that required clarification and we recommended a condition for a revised Air Quality Assessment to address the points that we had raised.*

*We acknowledge a revised letter by Arcadis Consulting Ltd dated: 26<sup>th</sup> October 2023 in response to our comments. For completeness we require the submission of a revised Air Quality Assessment that incorporates the comments made by Arcadis. We expect the assessment to include where necessary a suitable mitigation plan, and we therefore recommend a condition.*

### **Contaminated Land**

Further to our comments dated 16th August 2023, the following has been received in support of the application:

1. *Ainley Top Highway Improvements, A629 Halifax Road, Huddersfield Phase 1 Desk Study Report, Rev 1 dated November 2021 (ref: 446367)*
2. *Cavalry Arms Junction, A629 Halifax Road, Huddersfield Phase 1 Desk Study Report, Rev 1 dated November 2021 (ref: 446368)*
3. *Prince Royd Car Park, A629 Halifax Road, Huddersfield Phase 1 Desk Study Report, Rev 1 dated November 2021 (ref: 446368)*

*We have read the above reports. These include some geo-technical information, which is outside the remit of Environmental Health. This consultation response therefore only relates to the land contamination aspects of the reports.*

*The three Phase 1 documents details from each particular area of the scheme following a walkover in 2019. The documents assess the potential source pollutant linkages and have generally identified risks from made ground and ground gases associated with the previous land uses on and off-site. Whilst the documents do not consider shallow combustible material, a risk from shallow coal has been identified and given the information provided to date we are satisfied with the Phase 1 reports provided. Our recommendations have been revised to reflect this. Nevertheless, the following comments from our previous response dated 16<sup>th</sup> August 2023 remain:*

- *No new information has been received in relation to Area C (Prince Royd).*
- *The concerns raised in our October 2021 response regarding ground gases at Area D (Ainley Top) have not been fully addressed. Whilst we acknowledge that no structures are proposed, we require a more detailed commentary that addresses these points to confirm the validity of the data presented.*
- *The reports do not appear to fully examine change of migration pathways from the planned proposals. Has this been considered?*
- *In terms of remediation, the Calvary Arms report identifies localised elevated contamination, and recommends that excavated soils be 'processed' and if found to be 'stained or extensively discoloured they should be separated and retested before removal from site'. This proposal is unsatisfactory as a visual assessment cannot quantify the presence of contamination. The report adds that any resulting landscaping should be covered by a minimum 400mm thickness of validated clean processed or imported topsoil. It is also recommended that any remediation follows YALPAG Technical Guidance for Developers, Landowners & Consultants guidance.*

*Considering the above, we recommend conditions to secure further information in relation to intrusive investigation works (Phase 2) and the subsequent phases of the contaminated land management (remediation and verification).*

### **Electric Vehicle Charging Points (EVCPs)**

*In our comments dated 16<sup>th</sup> August 2023, we acknowledged that the proposal included the installation of 12 fast charging points, and we recommended a condition to secure the installation of the proposed charging points prior to the development being brought into use.*

*Since then, a letter from the agent Ward Hadaway dated 6<sup>th</sup> October has been submitted. One of the points it mentions is the rewording of the EVCP condition to allow the car park to come into use before the installation of the charging points to get the parked cars off Halifax Road. It recommends a timescale for installation of within 3 months of the car park being brought into use.*

*We have no objection to the proposed changes of the condition.*

### **Noise**

*Comment has been made based upon the removal of works to Area A - Blacker Road Junction with the applicant submitting an updated Environmental Noise Assessment authored by Waterman dated April 2023 Ref WIE14496-105-R-26.3.2.*

*The assessment was based upon previous noise monitoring and in conclusion, it indicated that the improvements would cause an increase in road traffic noise at some properties but with no increase at others. The predicted increases were considered to be not significant at locations where potentially significant increases in road traffic noise may occur. In particular, in Area D, 121 Yew Tree Road was predicted to have an increase of greater than 1dB in both the short-term (+1.8dB) and long-term (+2.1dB). The most exposed façade is the western façade due to the carriageway being slightly closer to the property within the amended scheme. Under the Do Something scenario, predicted noise levels on this façade are just above the SOAEL (Significant Observed Adverse Effect Level). At all other properties, although increases in road traffic noise are predicted to occur, they are below the SOAEL and less than 1dB on the most exposed facades.*

*The findings of the report are accepted and in summary, we have referred to 121 Yew Tree Road being eligible for measures under the Noise Insulation Regulations 1975 (as amended 1988). This eligibility remains unchanged and for clarity, it is for the Highways Authority to consider any discretionary mitigation measures and a footnote is recommended to state this.*

### **Recommendations**

#### **AQIAC1 Air Quality Impact Assessment – Impact of new development on the area- Condition**

*Before construction commences, a full Air Quality Impact Assessment shall be submitted to and approved in writing by the Local Planning Authority. The assessment shall:*

- determine the impact that the development will have on air quality (taking into consideration any cumulative impact from other local developments) and if necessary provide a suitable mitigation plan*

- include a dust mitigation plan which should consider dust arising from all construction related activities and any necessary mitigation measures to control dust during construction.

**Reason:** For promoting sustainable development and transport and conserving the natural environment in accordance with parts 2, 9 & 15 of the NPPF and LP20, LP24, LP47, LP51 of the Local Plan

**CLC2 Submission of a Phase 2 Intrusive Site Investigation Report (All Areas B, C & D) - Condition**

Groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report (for all areas B, C & D) by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.

**Reason:** To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 183 and 184 of the National Planning Policy Framework

**CLC3 Submission of Remediation Strategy - Condition**

Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition (CLC2) further groundworks shall not commence until a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

**Reason:** To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 183 and 184 of the National Planning Policy Framework

**CLC4 Implementation of the Remediation Strategy - Condition**

Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition (CLC3). In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report is identified or encountered on site, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

**Reason:** To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 183 and 184 of the National Planning Policy Framework

**CLC5 Submission of Verification Report - Condition**

Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Verification Report by a suitably competent person shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the remediation measures have been completed for (that part of) the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Verification Report in respect of those remediation measures has been approved in writing by the Local Planning Authority. Where

verification has been submitted and approved in stages for different areas of the whole site, a Final Verification Summary Report shall be submitted to and approved in writing by the Local Planning Authority.

**Reason:** To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 183 and 184 of the National Planning Policy Framework

#### **CLC7 Contaminated land - Footnote**

All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2021. Reports must be prepared in accordance with the following guidance:

- Land Contamination Risk Management (LCRM)
- BS 10175:2011+ A2:2017 Investigation of Potentially Contaminated Sites. Code of Practice
- Development on Land Affected by Contamination - Technical Guidance for Developers, Landowners & Consultants - (v11.2) June 2020 by the Yorkshire and Lincolnshire Pollution Advisory Group.

The conditions relate to Planning Control only. Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information. Any other necessary consent must be obtained from the appropriate authority. If the applicant commences work without discharging conditions, they will be at risk of enforcement action and invalidating the permission if the planning condition is a pre commencement condition.

#### **Footnote – Eligibility for Noise Insulation**

Under Regulation 4(1) of The Noise Insulation Regulations 1975 (as amended 1988), the Highway Authority (Kirklees) has discretionary powers to offer noise insulation if the four requirements listed below are fulfilled in respect of an altered road -

- The Relevant Noise Level must be at least 68 dB (A)  $L_{10}$  (18-hour).
- The Relevant Noise Level must be at least 1dB(A) more than the Prevailing Noise Level.
- New roads must contribute at least 1dB(A) to the Relevant Noise Level.
- The property must be within 300m of a carriageway forming part of the scheme.

The noise levels at 121 Yew Tree Road meet with these requirements and it is for the Highways Authority to consider this.

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