

# Public Document Pack



**Assistant Director, Governance and  
Monitoring**

**Julie Muscroft**

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**Tel:** 01484 221000

Please ask for: Richard Dunne

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Wednesday 26 October 2016

## Notice of Meeting

Dear Member

### Strategic Planning Committee

The **Strategic Planning Committee** will meet in the **Council Chamber - Town Hall, Huddersfield** at **1.00 pm** on **Thursday 3 November 2016**.

This meeting will be webcast live.

The items which will be discussed are described in the agenda and there are reports attached which give more details.

A handwritten signature in black ink, appearing to read "Julie Muscroft".

**Julie Muscroft**

**Assistant Director of Legal, Governance and Monitoring**

Kirklees Council advocates openness and transparency as part of its democratic processes. Anyone wishing to record (film or audio) the public parts of the meeting should inform the Chair/Clerk of their intentions prior to the meeting.

## **The Strategic Planning Committee members are:-**

### **Member**

Councillor Steve Hall (Chair)  
Councillor Bill Armer  
Councillor Donald Firth  
Councillor Paul Kane  
Councillor Carole Pattison  
Councillor Andrew Pinnock

When a Strategic Planning Committee member cannot be at the meeting another member can attend in their place from the list below:-

### **Substitutes Panel**

#### **Conservative**

D Bellamy  
L Holmes  
B McGuin  
N Patrick  
K Sims

#### **Green**

K Allison  
A Cooper

#### **Independent**

C Greaves  
T Lyons

#### **Labour**

G Asif  
F Fadia  
E Firth  
C Scott  
S Ullah  
M Sokhal

#### **Liberal Democrat**

R Eastwood  
J Lawson  
A Marchington  
L Wilkinson

# Agenda

## Reports or Explanatory Notes Attached

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### Pages

#### **1: Membership of the Committee**

This is where Councillors who are attending as substitutes will say for whom they are attending.

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#### **2: Minutes of the Previous Meeting**

1 - 14

To approve the Minutes of the meeting of the Committee held on 6 October 2016.

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#### **3: Interests and Lobbying**

15 - 16

The Councillors will be asked to say if there are any items on the Agenda about which they might have been lobbied. The Councillors will be asked to say if there are any items on the Agenda in which they have disclosable pecuniary interests, which would prevent them from participating in any discussion of the items or participating in any vote upon the items, or any other interests.

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#### **4: Admission of the Public**

Most debates take place in public. This only changes when there is a need to consider certain issues, for instance, commercially sensitive information or details concerning an individual. You will be told at this point whether there are any items on the Agenda which are to be discussed in private.

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## **5: Deputations/Petitions**

The Committee will receive any petitions and hear any deputations from members of the public. A deputation is where up to five people can attend the meeting and make a presentation on some particular issue of concern. A member of the public can also hand in a petition at the meeting but that petition should relate to something on which the body has powers and responsibilities.

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## **6: Public Question Time**

The Committee will hear any questions from the general public.

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## **7: Site Visit - Application 2016/92029 and 2016/92030**

Erection of extension to existing Kingsgate Shopping Centre to form a new leisure development including new cinema and restaurants and demolition of existing buildings on the site including 20-22 Cross Church Street (partly within a conservation area). Proposed development site comprising, 20-22 Cross Church Street, Fleece Yard, Sun Inn Yard and White Lion Yard, Huddersfield.

Estimated time of arrival at site – 11.40am.

Contact: Louise Bearcroft, Planning Officer

### **Wards**

**Affected:** Newsome

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## **8: Planning Applications**

17 - 78

The Strategic Planning Committee will consider the attached schedule of Planning Applications.

Please note that any members of the public who wish to speak at the meeting must register to speak by no later than 5.00pm (for phone requests) or 11:59pm (for email requests) on Monday 31 October 2016.

To pre-register, please contact [richard.dunne@kirklees.gov.uk](mailto:richard.dunne@kirklees.gov.uk) or phone Richard Dunne on 01484 221000 (Extension 74995)

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Contact Officer: Richard Dunne

## **KIRKLEES COUNCIL**

### **STRATEGIC PLANNING COMMITTEE**

**Thursday 6th October 2016**

Present: Councillor Steve Hall (Chair)  
Councillor Bill Armer  
Councillor Donald Firth  
Councillor Paul Kane  
Councillor Carole Pattison  
Councillor Andrew Pinnock

#### **1 Membership of the Committee**

There were no substitutions of membership.

#### **2 Minutes of the Previous Meeting**

**RESOLVED** – That the Minutes of the meeting of the Committee held on 8 September 2016 be approved as a correct record.

#### **3 Interests and Lobbying**

No interests or lobbying were declared.

#### **4 Admission of the Public**

All items on the agenda were considered in public session.

#### **5 Deputations/Petitions**

No deputations or petitions were received.

**6 Site Visit - Application 2016/92420**

Site visit undertaken.

**7 Site Visit - Application 2016/92066**

Site visit undertaken.

**8 Planning Applications**

The Committee considered the schedule of Planning Applications. Under the provisions of Council Procedure Rule 37, the Committee heard representations from members of the public in respect of the following application;

- (a) Application 2016/92420 - Erection of college building and associated infrastructure works at Former Safeway Store, Commercial Road, Dewsbury – Richard Lockey (Architect) and Melanie Brook (speaking on behalf of the applicant)

**RESOLVED** - That the Applications under the Planning Act included in the list submitted for consideration by the Committee be determined as now indicated and that the schedule of decisions be circulated to Members.



**KIRKLEES COUNCIL**  
**LIST OF PLANNING APPLICATIONS DECIDED BY**  
**STRATEGIC PLANNING COMMITTEE**  
**6 OCTOBER 2016**

**APPLICATION NO.****DESCRIPTION, LOCATION OF PROPOSAL AND DECISION**

2016/90894

Juan Torres, Barnes Homes - Erection of 5 no. units -  
Rawfolds Way, Cleckheaton

**CONDITIONAL FULL PERMISSION**

- (1) The development shall be begun not later than the expiration of three years beginning with the date on which permission is granted.
- (2) The development hereby permitted shall be carried out in complete accordance with the approved plans and specifications except as may be required by other conditions.
- (3) No development shall take place until sample facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed of the approved materials.
- (4) Prior to the commencement of building works associated with unit 17 all existing trees shown on the approved plan (90027 RWF 79) to be retained around the footprint of approved unit 17 adjacent to the boundary with Shirley Villas shall be protected for the lifetime of the construction phase by fencing in accordance with British Standard for Trees and construction BS5837:2012.
- (5) No development shall take place until a comprehensive scheme for landscaping treatment of the site prepared in accordance with the Local Planning Authority's Code of Practice Note 2 has been submitted to and approved in writing by the Local Planning Authority.
- (6) Any planting, seeding or tree management works forming part of the landscaping scheme referred to in Condition 4 shall be carried out during the first planting, seeding or management season following the commencement of development, or as otherwise may be agreed in writing by the Local Planning Authority, and shall be maintained for a period of five years from the completion of planting works. All specimens which die within this period shall be replaced.
- (7) Development shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) has been submitted to and approved in writing by the Local Planning Authority.
- (8) Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition 6 development shall not commence until a Phase II Intrusive Site

**APPLICATION NO.****DESCRIPTION, LOCATION OF PROPOSAL AND DECISION**

2016/90894 Cont'd

Investigation Report has been submitted to and approved in writing by the local planning authority.

(9) Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 7 development shall not commence until a Remediation Strategy 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.

(10) Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 8. 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 works on site (save for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Unless otherwise agreed in writing with the local planning authority, 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.

(11) Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the local planning authority. Unless otherwise agreed in writing with the local planning authority, no part of the site shall be brought into use until such time as the remediation measures for the whole site have been completed in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the local planning authority.

(12) The development hereby approved shall be restricted to Class B1(b&c) of the Town and Country Planning (Use Classes) Order 1987 as amended and no other use, without the prior consent in writing of the Local Planning Authority

(13) Before each of the proposed B1 Light Industrial units are brought into use, a report specifying the measures to be taken to protect the occupants of nearby noise sensitive premises at 1,3 and 5 Shirley Villas, Cartwright Street, Cleckheaton BD19 5LT from noise from the proposed development shall be submitted to and approved in writing by the Local Planning Authority.

**APPLICATION NO.****DESCRIPTION, LOCATION OF PROPOSAL AND DECISION**

2016/90894 Cont'd

The report shall include:

- An assessment of the noise emissions from the development;
- Details of the background and predicted noise levels at the southern boundary of the development with no 1, Shirley Villas, Cartwright Street, Cleckheaton BD19 5LT;
- A scheme of how the occupants of no's 1,3 and 5 Shirley Villas, Cartwright Street, Cleckheaton, BD19 5LT will be protected from noise from the proposed development with noise attenuation measure as appropriate

The development shall not be brought into use until all works comprised within the measures specified in the report have been carried out in full and such works shall thereafter be retained.

(14) The development permitted by this planning permission shall be carried out in accordance with the approved FRA for Spenborough Business Park (July 2016/10217-5003, rev no 01/ Met Engineers Ltd) and follow the mitigation measures detailed within the FRA.

- Finished floor levels are set no lower than 300mm above ground level;
- Overland flow routes are maintained through the site as indicated in the Surface Water Management Plan in Appendix 11 of the approved FRA.

The mitigation measures shall be fully implemented in accordance with the timing/ phasing arrangements embodied within the scheme, or within any other period a may be subsequently be agreed , in writing , by the local planning authority.

(15) Development shall not commence until a scheme restricting the rate of surface water discharge from the site to a maximum of 5 litres per second has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall be designed to attenuate flows generated by the critical 1 in 30 year storm event as a minimum requirement. Flows between the critical in 30 or critical 1 in 100 year storm events shall be stored on site in areas to be approved by the Local Planning Authority, unless it can be demonstrated to the satisfaction of the Local Planning Authority that discharge from the site does not cause an increased risk in flooding elsewhere. The scheme shall include a detailed maintenance and management regime for the storage facility including the flow restriction. There shall be no piped discharge of surface water from the development and no part of the development shall be brought into use until the flow restrictions and attenuation works have been completed. The

**APPLICATION NO.****DESCRIPTION, LOCATION OF PROPOSAL AND DECISION**

2016/90894 Cont'd

approved maintenance and management scheme shall be implemented throughout the lifetime of the development.

(16) Prior to the commencement of development the following details shall be submitted for the written approval of the Local Planning Authority:

- A remediation scheme to afford public safety and the stability of the proposed development from the risks posed by two recorded mine entries (shafts);
- A scheme of intrusive site investigations for approval;
- The undertaking of that scheme of intrusive site investigations;
- The submission of a report of findings arising from the intrusive site investigations;
- The submission of a scheme of remedial works for approval; and
- Implementation of those remedial works.

The agreed details shall be implemented prior to the occupation of any buildings on the site.

(17) Prior to any buildings being occupied details of the boundary treatments shall be submitted for the written consent of the Local Planning Authority. The approved fencing shall be implemented prior to the occupation of any buildings and thereafter retained.

(18) The development hereby permitted shall incorporate measures to minimise the risk of crime and meet the specific security needs of the development site. Details of the measures to be incorporated shall be submitted to and approved in writing by the Local Planning Authority, prior to development commencing, and shall be implemented before the development is first occupied and thereafter retained throughout the lifetime of the development.

(19) Before development commences, the proposed visibility splays shown on approved plan no RWF-01 rev C shall be cleared of all obstructions to visibility and tarmac surface to current standards in accordance with details that have previously been approved in writing by the Local Planning Authority.

(20) Within 3 months of any part of the development being brought into use a Travel Plan shall be implemented in accordance with the Framework included within the PAH Consultants Transport Assessments and there after retained throughout the lifetime of the development.

(21) Notwithstanding the submitted details, electric vehicle charging points shall be installed in at least 10% of the vehicle parking spaces. Details of the location and installation shall be submitted prior to development commencing, and the approved

APPLICATION NO.	DESCRIPTION, LOCATION OF PROPOSAL AND DECISION
2016/90894 Cont'd	<p data-bbox="528 215 1353 286">details shall be implemented before the occupation of any business units, and thereafter retained.</p> <p data-bbox="528 327 1410 398">A RECORDED VOTE WAS TAKEN IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 42(5) AS FOLLOWS;</p> <p data-bbox="528 439 1378 510">FOR: Councillors Armer, D Firth, S Hall, Kane, Pattison and A Pinnock (6 Votes)</p> <p data-bbox="528 551 842 589">AGAINST: (No Votes)</p>
2016/92420	<p data-bbox="528 622 1437 734">Kirklees College - Erection of college building and associated infrastructure works - Former Safeway Store, Commercial Road, Dewsbury</p> <p data-bbox="528 768 1042 806">CONDITIONAL FULL PERMISSION</p> <p data-bbox="528 840 1430 952">(1) The development shall be begun not later than the expiration of three years beginning with the date on which permission is granted.</p> <p data-bbox="528 985 1434 1171">(2) The development hereby permitted shall be carried out in complete accordance with the plans and specifications listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.</p> <p data-bbox="528 1205 1410 1391">(3) No part of the external walling/cladding of the new college building shall take place until samples of all facing and roofing materials has been submitted to and approved in writing by the Local Planning Authority, and the development shall be constructed of the approved materials.</p> <p data-bbox="528 1424 1445 2049">(4) Development shall not commence until a scheme restricting the rate of surface water discharge from the site to Batley Beck to a maximum of 70% (as advised by Strategic Drainage) of the existing pre-development flow rate to the same outfall, has been submitted to and approved in writing by Local Planning Authority. The drainage scheme shall be designed to attenuate flows generated by the critical 1 in 30 year storm event as a minimum requirement. Flows between the critical 1 in 30 or critical 1 in 100 year storm events shall be stored on site in areas to be approved in writing by the Local Planning Authority unless it can be demonstrated to the satisfaction of the Local Planning Authority that discharge from site does not cause an increased risk in flooding elsewhere. The scheme shall include a detailed maintenance and management regime for the storage facility including the flow restriction. There shall be no piped discharge of surface water from the development and no part of the development shall be brought into use until the flow restriction</p>

**APPLICATION NO.****DESCRIPTION, LOCATION OF PROPOSAL AND DECISION**

2016/92420 Cont'd

and attenuation works comprising the approved scheme have been completed. The approved maintenance and management scheme shall be implemented throughout the lifetime of the development.

(5) Surface water from vehicle parking hardstanding areas shall be passed through an interceptor of adequate capacity prior to discharge. Roof drainage should not be passed through any interceptor.

(6) A report specifying the measures to be taken to protect the occupants of nearby noise sensitive premises from noise from plant associated with the proposed development shall be submitted to and approved in writing by the Local Planning Authority before development of the superstructure of the college building commences. The report shall include:

- (1) an assessment of noise emissions from the proposed development including proposed external plant and activities within the college buildings
  - (2) details of background and predicted noise levels at nearby noise sensitive properties
  - (3) a written scheme of how the occupants of noise sensitive premises will be protected from noise from the proposed development with noise attenuation measures as appropriate
- The development shall not be brought into use until all works comprised within the measures specified in the approved report have been carried out in full and such works shall be thereafter retained.

(7) Development shall not commence until a scheme restricting the rate of surface water discharge from the site to Batley Beck , including a survey of existing drainage arrangements on site, has been submitted to and approved in writing by Local Planning Authority.

- Where it is found that the site currently drains to Batley Beck discharge rates must be attenuated to a maximum of 70% of the existing pre-development flow.
- Where it is found that the site does not currently drain to Batley Beck and new connections are required, discharge rates must be attenuated to the greenfield rate of 5l/s/ha.

The drainage scheme shall be designed to attenuate flows generated by the critical 1 in 30 year storm event as a minimum requirement. Flows between the critical1 in 30 or critical 1 in 100 year storm events shall be stored on site in areas to be approved in writing by the Local Planning Authority unless it can be demonstrated to the satisfaction of the Local Planning Authority that discharge from site does not cause an increased risk in flooding elsewhere.

**APPLICATION NO.****DESCRIPTION, LOCATION OF PROPOSAL AND DECISION**

2016/92420 Cont'd

The scheme shall include a detailed maintenance and management regime for the storage facility including the flow restriction. There shall be no piped discharge of surface water from the development and no part of the development shall be brought into use until the flow restriction and attenuation works comprising the approved scheme have been completed. The approved maintenance and management scheme shall be implemented throughout the lifetime of the development.

(8) A landscaping scheme (which includes details of hard and soft landscaping and boundary treatments and which makes specific reference to the planting of native tree, shrub and plant species) shall be submitted to and approved in writing by the local Planning Authority before development of the superstructure of the building commences.

(9) On completion of the development the cycle storage facilities will be provided in accordance with the details shown on the approved plans, and the approved facilities shall thereafter be retained.

(10) Details of storage and access for collection of wastes from the premises shall be submitted to and approved in writing by the Local Planning Authority before the new college building is occupied. The approved details shall be provided before the development is brought into use and shall be retained thereafter.

(11) The development shall be carried out in accordance with the submitted Travel Plan (produced by Hy Consulting, ref: 16067/July 2016). The approved Travel Plan shall be operated at all times that the development is occupied and shall be reviewed and updated on an annual basis in accordance with the details that are outlined in the approved plan. The Travel Plan and all updates shall be produced in accordance with current national, regional and local best practice guidance and shall include details of operation, Travel Plan Coordinator/s, targets, infrastructure to be provided, measures that will be implemented, monitoring and review mechanisms, procedures for remedial action that may be required and a timetable for implementing the plan.

(12) A scheme detailing the location and cross sectional information together with the proposed design and construction for all the retaining walls and building walls supporting the adjacent existing highway including any proposed modifications to the existing private highway retaining walls on the A638 Halifax Road and Commercial Road shall be submitted to and approved in writing by the Local Planning Authority before development of the superstructure of the building commences. The approved scheme shall be implemented prior to the commencement of development of the building and thereafter retained.



**APPLICATION NO.****DESCRIPTION, LOCATION OF PROPOSAL AND DECISION**

2016/92420 Cont'd

(13) Two electric vehicle charging points shall be provided before the college building is occupied, in accordance with the submitted details shown on the approved site plan, and shall thereafter be retained.

(14) All windows in the rendered section of building shall be inset to a minimum of 0.070m from the elevation. Where possible the inset shall seek to achieve 0.10m from the elevation.

(15) Prior to the development being brought in to use, a scheme detailing a) the provision of a pedestrian refuge on Bradford Road between the proposed pedestrian access to the development site and Dewsbury Ring Road and b), the removal of the existing right turn facility into the existing access into the development on Bradford Road shall be submitted to and approved in writing by the Local Planning Authority. The scheme so approved shall be implemented before the development is first brought into use and thereafter retained.

The submitted details shall include full sections, construction specifications, drainage works, lighting, signage, lining, surface finishes and transport regulation orders together with an independent safety audit covering all aspects of the works.

(16) A scheme detailing measures to manage parking on Commercial Road to allow drop off and pick up of students at the college and all associated works, together with appropriate Safety Audits shall be submitted to and approved in writing by the Local Planning Authority before development of the superstructure of the building commences. The scheme so approved shall be implemented before the development is first brought into use and thereafter retained.

(17) No part of the development shall be brought into use until the existing access from Bradford Road has been permanently closed [and any redundant footway crossings removed and the footway reinstated] and the new access has been constructed and brought into use in accordance with details that have previously been approved in writing by the Local Planning Authority.

NOTE: A competent person should undertake any noise survey and developers may wish to contact the Association of Noise Consultants <http://www.association-of-noise-consultants.co.uk/Pages/Links.htm> (01736 852958) or the Institute of Acoustics <http://www.ioa.org.uk> (01727 848195) for a list of members.

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection,

**APPLICATION NO.****DESCRIPTION, LOCATION OF PROPOSAL AND DECISION**

2016/92420 Cont'd

construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

07.30 and 18.30 hours Mondays to Fridays  
08.00 and 13.00hours , Saturdays

With no working Sundays or Public Holidays  
In some cases, different site specific hours of operation may be appropriate.

Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which work may be carried out.

NOTE: This development may require a permit under the Environmental Permitting (England and Wales) Regulations 2010 for any proposed works or structures, in, under, over or within eight metres of the top of the bank of Batley Beck which is designated as a 'main river'. This was formerly called a flood defence consent. Some activities are also now excluded or exempt. A permit is separate to and in addition to any planning permission granted. Further details and guidance are available at <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>

NOTE All contamination reports shall be prepared in accordance with CLR 11 and PPS23 and the Council's Advice for Development Documents or any subsequent revisions of these documents.

NOTE: The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer (Kirklees Street Scene: 01484 221000) with regard to obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution.

A RECORDED VOTE WAS TAKEN IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 42(5) AS FOLLOWS;

FOR: Councillors Armer, D Firth, S Hall, Kane, Pattison and A Pinnock (6 Votes)

AGAINST: (No Votes)

APPLICATION NO.	DESCRIPTION, LOCATION OF PROPOSAL AND DECISION
2016/92066	<p data-bbox="528 215 1422 360">Kirklees Stadium Development Ltd &amp; Hotel - Erection of hotel with associated external works including car parking, servicing and landscaping including realigning of access road - Stadium Way, Huddersfield</p> <p data-bbox="528 398 1422 472">CONDITIONAL FULL PERMISSION SUBJECT TO DELEGATION OF AUTHORITY TO OFFICERS TO:</p> <p data-bbox="528 472 1422 546">(A) REFER THE RESOLUTION TO GRANT CONDITIONAL FULL PERMISSION TO THE HEALTH &amp; SAFETY EXECUTIVE</p> <p data-bbox="528 546 1422 651">(B) IMPOSE ALL NECESSARY AND APPROPRIATE CONDITIONS INCLUDING THOSE IN THE SUBMITTED REPORT AND THE UPDATE LIST;</p> <p data-bbox="528 651 1422 763">(C) SUBJECT TO THERE BEING NO SUBSTANTIVE CHANGES TO ALTER THE RECOMMENDATION, ISSUE THE DECISION NOTICE.</p> <p data-bbox="528 801 1422 875">A RECORDED VOTE WAS TAKEN IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 42(5) AS FOLLOWS;</p> <p data-bbox="528 913 1422 987">FOR: Councillors Armer, D Firth, S Hall, Kane, Pattison and A Pinnock (6 Votes)</p> <p data-bbox="528 1025 842 1064">AGAINST: (No Votes)</p>
2016/90146	<p data-bbox="528 1102 1422 1176">Mr J Wood - Outline application for erection of residential development - Land at, Lancaster Lane, Brockholes, Holmfirth</p> <p data-bbox="528 1214 1422 1319">INFORM THE PLANNING INSPECTORATE THAT THE LOCAL PLANNING AUTHORITY WOULD HAVE REFUSED THE APPLICATION FOR THE FOLLOWING REASON:</p> <p data-bbox="528 1357 1422 1760">(1) The site is allocated as Urban Greenspace on the Council's Unitary Development Plan (UDP) Proposals Map. The extent of development proposed would prejudice the site's value as open land whereby the potential exists for the ecology of the site to recover. In such circumstances the Urban Greenspace is not deemed to be surplus to requirements. The proposed development is therefore contrary to Policy D3 of the UDP and paragraph 74 of the National Planning Policy Framework. The loss of the value of the Urban Greenspace is considered to outweigh all other material considerations, including the delivery of new housing.</p> <p data-bbox="528 1798 1422 1872">A RECORDED VOTE WAS TAKEN IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 42(5) AS FOLLOWS;</p> <p data-bbox="528 1910 1422 1984">FOR: Councillors Armer, D Firth, S Hall, Pattison and A Pinnock (5 Votes)</p> <p data-bbox="528 2022 842 2060">AGAINST: (No Votes)</p>

APPLICATION NO.	DESCRIPTION, LOCATION OF PROPOSAL AND DECISION
2016/90146 Cont'd	ABSTAINED: Councillor Kane

<b>KIRKLEES COUNCIL</b>			
<b>DECLARATION OF INTERESTS AND LOBBYING</b>			
Strategic Planning Committee			
Name of Councillor			
Item in which you have an interest	Type of interest (eg a disclosable pecuniary interest or an “Other Interest”)	Does the nature of the interest require you to withdraw from the meeting while the item in which you have an interest is under consideration? [Y/N]	Brief description of your interest
LOBBYING			

Date	Application/Page No.	Lobbied By (Name of person)	Applicant	Objector	Supporter	Action taken / Advice given

Signed: ..... Dated: .....

## NOTES

### Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your disclosable pecuniary interests under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Any tenancy where (to your knowledge) - the landlord is your council or authority; and the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -

(a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and  
(b) either -

- the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
- if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

### Lobbying

If you are approached by any Member of the public in respect of an application on the agenda you must declare that you have been lobbied. A declaration of lobbying does not affect your ability to participate in the consideration or determination of the application.

**KIRKLEES COUNCIL**  
**PLANNING SERVICE**  
**LIST OF PLANNING APPLICATIONS TO BE DECIDED BY**  
**STRATEGIC PLANNING COMMITTEE**

**03-Nov-2016**

**LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**  
**BACKGROUND PAPERS**

**There is a file for each planning application containing  
application form, plans and background papers.**

**Simon Taylor – 01484 221000**

**NOTE: For clarification the page numbering referred to  
shall be those set out in the contents page**





**In respect of the consideration of all the planning applications on this Agenda the following information applies:**

### **PLANNING POLICY**

The statutory development plan comprises the Kirklees Unitary Development Plan (saved Policies 2007).

The statutory development plan is the starting point in the consideration of planning applications for the development or use of land unless material considerations indicate otherwise (Section 38(6) Planning and Compulsory Purchase Act 2004).

The Council's Local Plan will be published for consultation on 7th November 2016 under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Council considers that, as at the date of publication, its Local Plan has limited weight in planning decisions. However, as the Local Plan progresses, it may be given increased weight in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

### **National Policy/ Guidelines**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 27<sup>th</sup> March 2012, the Planning Practice Guidance Suite (PPGS) launched 6<sup>th</sup> March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

### **REPRESENTATIONS**

Cabinet agreed the Development Management Charter in July 2015. This sets out how people and organisations will be enabled and encouraged to be involved in the development management process relating to planning applications.

The applications have been publicised by way of press notice, site notice and neighbour letters (as appropriate) in accordance with the Development Management Charter and in full accordance with the requirements of regulation, statute and national guidance.

## **EQUALITY ISSUES**

The Council has a general duty under section 149 Equality Act 2010 to have due regard to eliminating conduct that is prohibited by the Act, advancing equality of opportunity and fostering good relations between people who share a protected characteristic and people who do not share that characteristic. The relevant protected characteristics are:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- religion or belief;
- sex;
- sexual orientation.

In the event that a specific development proposal has particular equality implications, the report will detail how the duty to have “due regard” to them has been discharged.

## **HUMAN RIGHTS**

The Council has had regard to the Human Rights Act 1998, and in particular:-

- Article 8 - Right to respect for private and family life.
- Article 1 of the First Protocol - Right to peaceful enjoyment of property and possessions.

The Council considers that the recommendations within the reports are in accordance with the law, proportionate and both necessary to protect the rights and freedoms of others and in the public interest.

## **PLANNING CONDITIONS AND OBLIGATIONS**

Paragraph 203 of The National Planning Policy Framework (NPPF) requires that Local Planning Authorities consider whether otherwise unacceptable development could be made acceptable through the use of planning condition or obligations.

The Community Infrastructure Levy Regulations 2010 stipulates that planning obligations (also known as section 106 agreements – of the Town and Country Planning Act 1990) should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

The NPPF and further guidance in the PPGS launched on 6th March 2014 require that planning conditions should only be imposed where they meet a series of key tests; these are in summary:

1. necessary;
2. relevant to planning and;
3. to the development to be permitted;
4. enforceable;
5. precise and;
6. reasonable in all other respects

**Recommendations made with respect to the applications brought before the Planning sub-committee have been made in accordance with the above requirements.**



## **Content**

Application No: 2016/91074.....	8
Type of application: 60m - OUTLINE APPLICATION	
Proposal: Outline application for residential development and demolition of two dwellings	
Location: Land off, Old Bank Road, Mirfield	
Ward: Mirfield Ward	
Applicant: Paul Robinson, Yorkshire Properties Est Ltd	
Agent: Chris Riley, Edward Architecture	
Target Date: 18-Aug-2016	
Recommendation: RF1 - REFUSAL	
Application No: 2016/92122.....	21
Type of application: 60m - OUTLINE APPLICATION	
Proposal: Extension to time to previous permission 2008/92864 for outline application for erection of multi-use leisure and entertainment development with ancillary facilities plus hotel, office and residential uses	
Location: John Smiths Stadium, Stadium Way, Huddersfield, HD1 6PG	
Ward: Dalton Ward	
Applicant: Kirklees Stadium Development Ltd	
Agent: Steve Morton, Signet Planning	
Target Date: 23-Sep-2016	
Recommendation: ETLG - EXTENSION TO TIME LIMIT - GRANT	
Application No: 2016/92029.....	47
Type of application: 62m - FULL APPLICATION	
Proposal: Erection of extension to existing Kingsgate Shopping Centre to form new Leisure Development including new cinema and restaurants, and demolition of existing buildings on the site including 20-22 Cross Church Street (partly within a Conservation Area)	
Location: Proposed development site comprising, 20-22, Cross Church Street, Fleece Yard, Sun Inn Yard and White Lion Yard, Huddersfield, HD1 2TP	
Ward: Newsome Ward	
Applicant: Peter Everest, WD Kingsgate Ltd	
Agent: Hector Black, Covell Matthews Architects	
Target Date: 19-Sep-2016	
Recommendation: FOR MEMBERS TO NOTE THE CONTENT OF THE REPORT AND RESPOND TO THE QUESTIONS ASKED	

**Application No: 2016/91074**

**Type of application: 60m - OUTLINE APPLICATION**

**Proposal: Outline application for residential development and demolition of two dwellings**

**Location: Land off, Old Bank Road, Mirfield**

**Grid Ref: 420176.0 421345.0**

**Ward: Mirfield Ward**

**Applicant: Paul Robinson, Yorkshire Properties Est Ltd**

**Agent: Chris Riley, Edward Architecture**

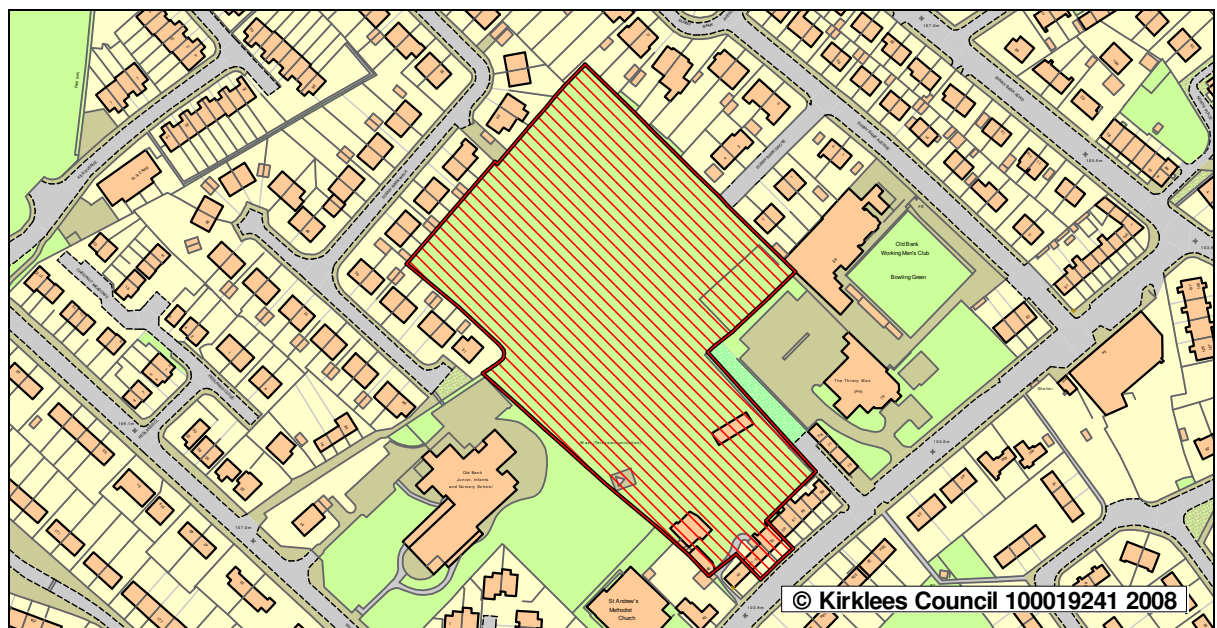
**Target Date: 18-Aug-2016**

**Recommendation: RF1 - REFUSAL**

**Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.**

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

## **LOCATION PLAN**



**Map not to scale – for identification purposes only**

<b>Application Details</b>		
Type of Development	Outline application for residential development	
Scale of Development	Site area: 1.74 ha	Units: 63
No. Jobs Created or Retained	N/A	
Policy		
UDP allocation	Housing & Unallocated	
Independent Viability Required	No	
Consultation		
Individual Support (No.)	0	
Individual Objection (No.)	13	
Petition	No	
Ward Member Interest	Yes	Cllr Bolt
Statutory Consultee Objections	No	
Contributions		
Affordable Housing	To be required by condition	
Education	£213,899.00 (required by S106)	
Public Open Space	To be required by condition	
Other	N/A	
Other Issues		
Any Council Interest?	No	
Pre-application advice	No	
Pre-App Consultation Undertaken?	No	
Comment on Application	<p>The application provides insufficient information to demonstrate that the site can be developed safely having regard to the historic uses of the site and in light of the previous appeal decision. In addition the application does not provide sufficient information in respect of the impact of the development on the local highway network and in terms of flood risk and drainage. Finally no S106 Agreement has been provided to secure the required Education contribution.</p>	

## **1. INFORMATION**

The application is brought to the Strategic Planning Committee because the proposed number of dwellings exceeds 60, in accordance with the council's scheme of delegation.

## **RECOMMENDATION: REFUSE**

## **2. PROPOSAL/SITE DESCRIPTION**

### **Proposal:**

The proposal is outline planning permission for the erection of residential development. The application indicates that permission is sought for 63 dwellings.

The main point of access is the only matter that has been applied for. Access is to be taken off Old Bank Road and two houses would be demolished to facilitate the formation of the access. All other matters are reserved.

An indicative layout plan has been submitted which shows a mixture of terraced, semi-detached and detached houses mainly set around a large area of public open space.

### **Site:**

The site is relatively flat and comprises an area of overgrown land containing grass, shrubs and trees. There are some fairly mature trees towards the south western boundary.

To the north of the site lies residential development and to the south west is Old Bank Junior, Infants & Nursery School. To the south east is The Thirsty Man public house and Old Bank Working Men's Club beyond. There is further residential development towards the south along Old Bank Road.

## **4. BACKGROUND AND HISTORY**

Application site:

2003/92203 Outline application for residential development – Refused & appeal dismissed

Application refused for the following reason:

*1. The Council are not satisfied that that if the development were to proceed, incorporating the measures proposed by the applicant, it will not present a risk of safety to individuals and property resulting from a potential landfill gas hazard. The development would therefore be contrary to policy EP1 of the Councils Unitary Development Plan and contrary to Government advice contained in Waste Management Paper 27.*

The following applications are in close proximity to the site and are currently being considered by the LPA:

Land at The Thirsty Man, 79 Old Bank Rd:

2016/92500 Erection of 13 dwellings – Undetermined

2016/92509 Erection of 7 dwellings – Undetermined



## **5. PLANNING POLICY**

Development Plan:

The vast majority site is allocated for housing on the UDP Proposals Map (H9.10).

The site is also allocated as derelict land on the UDP Proposals Map (9.7)

BE1 – Design principles  
BE2 – Quality of design  
BE12 – Space about buildings  
DL1 – Derelict/neglected land  
DL2 Derelict/neglected land  
DL3 Derelict/neglected land  
G6 – Land contamination  
NE9 – Retention of mature trees  
H1 – Housing needs of the district  
H6 – Allocated housing sites  
H10 – Affordable Housing  
H18 – Provision of open space  
T10 – Highway Safety  
T19 – Parking Standards

National Policies and Guidance:

NPPF Chapter 4: Promoting Sustainable Transport  
NPPF Chapter 6: Delivering a wide choice of high quality homes  
NPPF Chapter 7: Requiring good design  
NPPF Chapter 8: Promoting healthy communities  
NPPF Chapter 11: Conserving and enhancing the natural environment

Other Policy Considerations:

SPD2: Affordable Housing

## **6. CONSULTATIONS**

**KC Highways** – No objections in principle however further information is required to enable a full assessment of the application

**KC Environmental Services** – Object on grounds of landfill gas/contamination

**KC Arboricultural Officer** – No objection

**KC Strategic Drainage** – Submitted information insufficient to enable a proper assessment of flood risk. Surface water connection to sewer at a restricted rate is accepted in principle.

**KC Education Service** – Education contribution of £213,899.00 is required.

**KC Police Architectural Liaison Officer** – No objections. General crime prevention advice provided.

**Kc Strategic Waste** – Landfill gas monitoring data for nearby closed LFG sites provided

**KC Landscaping Section** – No objections in principle. Indicative layout shows on-site POS provision; this would provide the majority of the POS contribution generated by the development but an off-site sum of circa £35,650 would be necessary to make up the remainder to upgrade existing POS within the vicinity of the site.

**Environment Agency** – No objections raised

**Yorkshire Water** – Developer should investigate surface water connection to nearby watercourse before connection to public sewer is considered. If it is evidenced that connection to watercourse can be discounted then connection to public sewer at a restricted rate is acceptable. Foul connection to sewer in Old Bank Road is accepted.

**The Coal Authority** – No comments received

## **7. REPRESENTATIONS**

13 objections received.

Concerns summarised as follows:

- Traffic/highway safety
- Previous uses of site – contamination/pollution
- Pollution concerns and impact on adjacent school
- Local infrastructure unable to cope including roads, schools and healthcare facilities
- Loss of amenity – overlooking, overbearing, overshadowing
- Flood risk & drainage
- Loss of greenfield site
- Impact on wildlife including hedgehogs
- Japanese knotweed
- Ownership of boundaries

**Mirfield Town Council:** *“Strongly objects to the application and has great reservations that the information supplied in the 2003 report is not accurately reflected in the current situation and suitability for development. Mirfield Town Council has great concerns for the sewerage/water network and contamination finding its way to the water course. It is concerned at the over intensification of the site, the effect on Old Bank school and the Children’s Centre, disturbance of the land, issues with the highways and that it does not adhere to the Mirfield Design Statement.”*

**Cllr Martyn Bolt** has “great concerns about the application and the process” including the age of the submitted remediation report and the description of the site as disused recreational space (Cllr Bolt states that the land has never been used as recreational space).

## **8. ASSESSMENT**

### **General principle:**

The application seeks outline planning permission for residential development on land allocated for housing on the adopted development plan. The principle of development is therefore accepted in accordance with this allocation ‘unless material considerations indicate otherwise’.

The land is also allocated as derelict land on the UDP Proposals Map. Policy DL3 of the UDP indicates that the proposed use of this allocation is for housing/public open space.

Paragraph 14 of the National Planning Policy Framework (NPPF) outlines a presumption in favour of sustainable development. For decision-taking this means ‘approving development proposals that accord with the development plan without delay’.

An outline application for residential development on the site was refused by the LPA in 2004 (reference 2003/92203). The application was refused because it had not been adequately demonstrated that if the development were to proceed, incorporating the measures proposed by the applicant, it would not present a risk of safety to individuals and property resulting from a potential landfill gas hazard. An appeal against the council’s refusal was dismissed by the Planning Inspectorate following a public inquiry. The Inspector concluded that there would be an unacceptable risk to occupiers of the proposed development arising from the generation of landfill gas at the site. Furthermore, the Inspector considered that this issue could not be adequately addressed through planning conditions because the principle of housing development cannot be guaranteed on this site without a positive outcome from future investigation works.

The appeal decision is a significant relevant material consideration in the determination of the current application. The principle of the proposed development can only be considered to be acceptable if it is adequately demonstrated that the site can be developed without prejudicing the safety of future occupiers of the development, as well as existing occupiers close to the site.

Policy DL2 of the UDP states that priorities for the reclamation of derelict land will be determined having regard to the extent to which schemes will improve the visual environment or deal with serious contamination; secure the provisions of the plan; and revitalise and regenerate areas within allocated regeneration or rural development areas. Whilst the preamble to this policy

refers to government funding for the reclamation of derelict land, a scheme that deals with the serious contamination issues with this site will weigh in favour of any such development proposal.

### **Land contamination:**

Policy BE1 states that “new development should be of good quality design such that it contributes to a built environment which...promotes a healthy environment, including...avoidance of exposure to excessive noise or pollution”.

Policy G6 of the UDP states that “development proposals will be considered having regard to available information on the contamination or instability of the land concerned”.

A core planning principle of the NPPF is to always seek a good standard of amenity for all existing and future occupants of land and buildings.

Chapter 11 of the NPPF states that the planning system should prevent new development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.

An up-to-date phase 1 risk assessment was submitted during the course of the application.

This document describes the previous uses of the site and states that the land was used as a brick works with associated clay pit from around 1893 to 1922. Following the demise of the brick works the clay pit was infilled with demolition and construction waste and it is recorded that the landfill accepted chemical, inert, industrial, commercial and household waste. The site is recorded as a landfill site from 1945 to 1993.

The report identifies potential on-site contaminated sources and these include landfill materials comprising stone, ash, timber, bricks, metal fragments, rags, concrete, glass and plastic, and unspecified industrial waste along with the former land use as a brick works. Officers are also aware that spent waste from a nearby chemical works, which was involved in the production of creosote and agricultural chemicals, was deposited at the site however there is no proper record of the type and quantities of waste deposited other than in the licence for the northern part of the site which operated from 1978 until it was surrendered in 1993. This permitted solid, inert and non-putrescible demolition and construction waste only. Landfilling was completed in 1997.

The report concludes that the overall risk to human health from a residential development is very high due to the presence of landfill underlying the site, and associated soil and soil gas risks to residents. Overall groundwater risk remains moderate, as the groundwater has already been proven to be impacted. Risks to current adjacent residents are moderate to high based on

potential migration of landfill gas to the properties. In addition the unconsolidated nature of the fill poses significant geotechnical risks.

Significant remedial works will be required to make the site suitable for residential use. To address the issue of contamination the report suggests two potential remediation strategies. The first involves excavation of fill, removal of unsuitable materials (chemical, degradable and geotechnically unsuitable) and reinstatement to a geotechnical stable platform. The second involves a capping strategy and gas mitigation measures although the suitability of this particular strategy is dependent on the outcome of further investigations.

The phase 1 report has been reviewed by Environmental Services who agree with its conclusions and recommendations. However, due to the complexity of the contamination issues with the site and the uncertainty around its remediation it is considered that intrusive ground investigations (phase 2 report) and a detailed remediation strategy are necessary before planning permission can be granted. The information would need to include the results from a landfill gas monitoring programme to assess the risk and characterise the gas regime of the site; it is considered that 12 months of gas monitoring results would be needed to adequately characterise the gas regime.

This approach is consistent with the appeal decision whereby the Inspector considered that detailed investigations were necessary to accurately delineate the extent of the contamination by monitoring over the seasons of the year for both methane and organic solvents in order to produce a satisfactory remediation strategy for both. The Inspector concluded that without adequate investigations and a suitable remediation strategy the principle of housing development could not be accepted.

Given the extent of works and the time needed to provide sufficient information to satisfy the LPA that outline consent for residential development can be granted, officers have concluded that the application cannot be supported.

The applicant's primary solution to remediating the site is to remove all contaminated material and backfill with clean cover. This strategy would deal with the contaminated land and gassing issues at the site however it raises a number of other issues which would need to be addressed. For example, it would need to be demonstrated that this could be achieved without causing a significant odour nuisance given the volatile compounds that may still exist in the ground (an Environmental Impact Assessment is likely to be required). There are also concerns that disturbing contaminants in the ground and exposing them to the air may alter their characteristics and result in pollutants being released into the wider environment. What is more, the extent of material that would need to be removed is likely to amount to a 'quarrying' operation and give rise to associated amenity impacts such as noise and disturbance; if this is the case then the application description would need to reflect this aspect of the scheme.

Remediation of the site will also need to take into account the legacy of coal mining in this area and the potential for Japanese knotweed to be present.

In summary, the application does not provide sufficient information to demonstrate that the site can be safely developed for housing and that development could proceed without prejudicing adjacent residential properties and neighbouring school. The application is therefore considered to be unacceptable and contrary to Policies BE1 (iv) and G6 of the Kirklees Unitary Development Plan and guidance in the National Planning Policy Framework.

### **Impact on amenity:**

The indicative site layout shows a mixture of property types set alongside the access road and around a piece of open space within the site. There are concerns with the arrangement of the housing around the open space and the dominance of parking spaces and it is felt that a better layout could be achieved for this site. However, as layout is not under consideration this would be addressed under a future reserved matters application. The applicant is only seeking approval for the main point of access.

The demolition of the two houses on Old Bank Road and formation of the access would not significantly detract from the streetscene.

In terms of the total number of dwellings applied for (63), it is considered that the indicative layout appears somewhat cramped with significant use of car parking to the front of the terraced row not providing any meaningful front garden areas or landscaping. It is however considered possible to reduce the density and achieve a suitable layout.

The site is largely flat although it does rise up slightly towards the northwest. The proposed houses are indicated as being two and three storeys in height. The surrounding area is characterised by two storey properties and careful consideration of 'scale' would be required at reserved matters in terms of the character of the area and the impact on residential amenity.

Subject to consideration of layout and scale at reserved matters officers are satisfied that the council's space about building policy (BE12) could be satisfied. Achieving satisfactory separation distances may however influence the amount of development that can reasonably be accommodated on the site.

### **Highway issues:**

This proposal consists of an indicative masterplan showing the erection of a residential development of some 63 dwellings consisting of 34 three bed and 27 four bedroom properties and the demolition of two existing properties will be required to form the proposed new access. 126 associated parking spaces are proposed.

A Transport Statement (WSP Parsons Brinckerhoff August 2016) has been submitted in support of the application. The submitted Transport Statement contains a plan which illustrates that satisfactory vehicular visibility splays at

the proposed site access can be achieved. This is acceptable to Highways Development Management.

The application seeks permission for the main point of access only. The proposed internal spine road linking the site access is of 5.5m in width with 2.0m footways on both sides. This falls in line with Manual for Streets and is supported.

An assessment of the most recent Personal Injury Accident data within the vicinity of the site access has been undertaken. Highways Development Management is satisfied that there are no underlying accident trends or road safety issues that the introduction of this development would likely exacerbate.

The application site is considered to be adequately accessible to local public transport services with bus stops serving a number of local areas within 400m of the site that experience a good frequency of service.

An interrogation of the TRICS database has been undertaken in order to form a suitable dataset so that suitable trip rates can be determined. The data has been extrapolated against 2011 census data for journey to work mode split for the

Mirfield ward. The data derived is considered sufficiently robust and estimates circa 73 two-way trips during the AM peak hour and circa 54 two-way trips during the PM peak hour.

On the basis of the above Highways Development Management does not raise an objection to the principle of this residential proposal however there are some outstanding concerns regarding assessment requirements for existing conditions on Sunny Bank Road which have not been taken into account as part of the submitted Transport Assessment. This is specifically in terms of existing queueing which occurs back to Old Bank Road and the likely trips passing through the A62 Leeds Road/Sunny Bank Road and the Old Bank Road/Lee Green Junctions. This information has been requested from the applicant but has not been provided. The application therefore provides insufficient information to enable a full highways assessment.

Highways Development Management has highlighted concerns with the indicative layout in terms of the level of parking provision, the visitor parking spaces and vehicular parking off private drives. However, these matters would be addressed through a reserved matters submission for 'layout'.

### **Flood Risk & Drainage:**

There have been negotiations between officers and the applicant regarding flood risk and drainage.

Revised flood risk information has been submitted during the course of the application however Kirklees Flood Management & Drainage are concerned that flood routing has not been adequately addressed as part of the assessment and further information is required. The applicant has had an

opportunity to provide additional information but this has not been submitted and in the circumstances the application provides insufficient information to enable a proper assessment of flood risk on and off site.

Disposal of surface water via infiltration techniques or to nearby watercourse have both been ruled out in this instance. A connection to public sewer can therefore be considered having regard to the hierarchy of surface water disposal. Officers accept the principle of a connection to a surface water sewer in Old Bank Road. Subject to further clarification on the proposed drainage, a planning condition could be imposed requiring a detailed scheme.

Yorkshire Water has confirmed that foul waste can connect to the combined sewer in Old Bank Road.

### **Ecology:**

The site is likely to have relatively limited ecological value and biodiversity mitigation and enhancement could be provided through bat and bird boxes on the new dwellings, native planting as part of the landscaping of the site and measures to allow the free movement of hedgehogs. This would enable the application to comply with chapter 11 of the NPPF.

### **S106 matters/contributions:**

#### Affordable housing provision:

UDP policies H10 and H12 set out that the provision of affordable housing is a material consideration and that where secured, it must be retained. The Council's SPD on affordable housing is being introduced on a phased basis. The intention is to secure 30% of the capacity of greenfield sites of 5 or more dwellings as affordable housing. Paragraph 50 of the NPPF promotes the use of policies to meet the need for affordable housing on-site.

The development exceeds the threshold for affordable housing provision. Despite the previous use of the site it is argued that the site has now reverted to greenfield.

As this is an outline application with access the only matter applied for it is considered that affordable housing provision could be dealt with via condition.

#### Public Open Space:

The site area is over 0.4 hectares and as such the proposal triggers a requirement to provide public open space (UDP policy H4).

The indicative layout shows on-site POS provision; this would provide the majority of the POS contribution generated by the development but an off-site sum of circa £35,650 would be necessary to make up the remainder to upgrade existing POS within the vicinity of the site. As layout remains a



reserved matter it is considered that POS provision could be secured by condition.

#### Education provision:

An education contribution of £213,899.00 is required by this development. This would need to be secured by S106.

#### Viability:

The likely cost of remediation works necessary to make this site safe for development will affect the above contributions. The remediation scheme is unknown at this stage and a viability appraisal has not been submitted.

#### **Objections:**

Thirteen objections have been received. It is considered the main concerns of the objectors have been addressed within this assessment.

#### **Conclusion:**

The application provides insufficient information to demonstrate that the site can be developed safely having regard to the historic uses of the site and in light of the previous appeal decision.

In addition the application does not provide sufficient information in respect of the impact of the development on the local highway network and in terms of flood risk and drainage.

The development is therefore considered to be unacceptable.

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

This application has been assessed against relevant policies in the development plan and other material considerations. For the reasons set out in this report it is considered that the development would not constitute sustainable development and the application is therefore recommended for refusal.

### **9. RECOMMENDATION**

#### **REFUSE**

1. Having regard to the legacy of the historic uses of the site, the application provides insufficient information to demonstrate that the site can be safely developed for housing and that development could proceed without unduly prejudicing the safety and amenity adjacent property. The application is contrary to Policies BE1 (iv) and G6 of the Kirklees Unitary Development Plan and guidance in the National Planning Policy Framework.

2. The application provides insufficient information to demonstrate that the development would not have any significant adverse impacts on highway safety, flood risk and drainage. The application is contrary to Policies T10 and BE1.

3. In the absence of a completed Section 106 Agreement the development fails to provide appropriate contributions towards Education provision which is detrimental to the amenity of future occupiers and existing local residents who use the local schools.

This recommendation is based on the following plans and specifications schedule:-

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Design & Access Statement	-	-	19/5/16
Location Plan	PL01	-	19/5/16
Indicative Site Layout (indicating extent of highways approval)	PL02	-	12/9/16
Indicative Existing & Proposed Sections	PL03	-	19/5/16
Indicative Coloured Site Plan	PL04		19/5/16
Transport Statement	Report No. 70024265 Dated August 2016	-	12/9/16
Drainage Plan	00.16071/100	P1	12/9/16
Flood Risk & Drainage Strategy Study	Ref 00.16071/1 May 2016	Rev 1	12/9/16
Exploratory Geoenvironmental Appraisal	Report No. 1300/1 October 2011	-	19/5/16
Phase 2 Land Quality Assessment & Remediation Strategy	Dated 30 <sup>th</sup> Jan 2004	-	19/5/16
Preliminary Risk Assessment	Report No. 70023659-001 Dated September 2016	-	12/9/16

**Application No: 2016/92122**

**Type of application: 60m - OUTLINE APPLICATION**

**Proposal: Extension to time to previous permission 2008/92864 for outline application for erection of multi-use leisure and entertainment development with ancillary facilities plus hotel, office and residential uses**

**Location: John Smiths Stadium, Stadium Way, Huddersfield, HD1 6PG**

**Grid Ref: 415369.0 417595.0**

**Ward: Dalton Ward**

**Applicant: Kirklees Stadium Development Ltd**

**Agent: Steve Morton, Signet Planning**

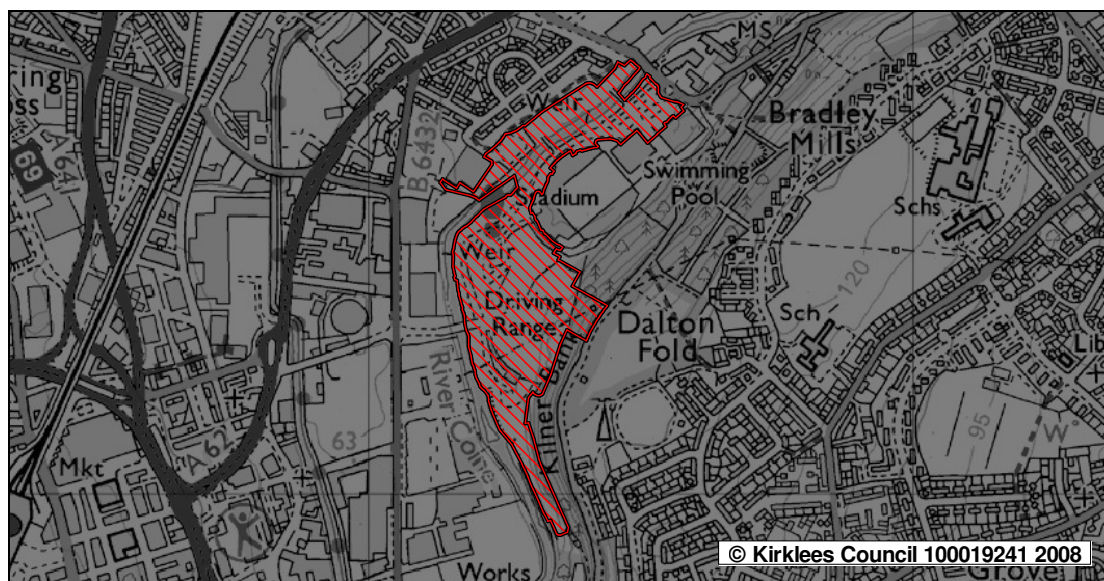
**Target Date: 23-Sep-2016**

**Recommendation: ETLG - EXTENSION TO TIME LIMIT - GRANT**

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**<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>**

## **LOCATION PLAN**



**Map not to scale – for identification purposes only**

## 1. SUMMARY OF APPLICATION

<b>Application Details</b>		
Type of Development	Multi-use leisure and entertainment development with ancillary facilities, plus hotel, office and residential uses	
Scale of Development	11.3 hectares	
No. Jobs Created or Retained	Unknown	
<b>Policy</b>		
UDP allocation	Derelict Land, Unallocated, Stadium Development, Urban Greenspace, Green Corridor, Regeneration Area.	
Independent Viability Required	No	
<b>Representation/Consultation</b>		
Individual Support (No.)	0	
Individual Objection (No.)	1	
Petition	0	
Ward Member Interest	None	
Statutory Consultee Objections	None	
<b>Contributions</b>		
• <i>Public Transport and Travel Plan Measures</i>		
• <i>Local Highway Works: K SEZ</i>		
• <i>Local Highway Works: St Andrews Road Junction</i>		
• <i>Local Highway Works: Gas Street / Thistle Street</i>		
• <i>Ecology / Biodiversity works</i>		
<b>Other Issues</b>		
Any Council Interest	Yes	
Planning Pre-Application Advice	Yes	
Pre-App Consultation Undertaken?	No	
<b>Comment on Application</b>	The proposal seeks to extend the time limit for implementing previously approved planning application 2008/92864 for a multi-use leisure and entertainment development with ancillary facilities, plus hotel, office and residential uses. Although there have been material changes to planning policy and guidance since outline permission was first approved, the principle of development remains acceptable.	

**RECOMMENDATION:** Grant extension of time to outline application for erection of multi-use leisure and entertainment development with ancillary facilities plus hotel, office and residential uses subject to the delegation of authority to officers to:

1. Refer the application to the Health and Safety Executive for them to consider whether to request that the Secretary of State for Communities and Local Government calls in the application for determination; subject to the application not being called in;
2. Enter into a supplemental S106 agreement to secure Public Transport and Travel Plan Measures, Local Highway Works and Ecological / Biodiversity Works;
3. Impose all necessary and appropriate conditions which may include those set out below and
4. Subject to there being no substantive changes that would alter the recommendation to issue the decision notice

## **2. INFORMATION**

The application is referred to Strategic Committee given the scale of development proposed and the length of time that has elapsed since the grant of outline planning permission

## **3. SITE DESCRIPTION /PROPOSAL**

### **The Site**

The site lies within the River Colne valley to the east of Huddersfield town centre. It is located to the East and South of Leeds Road; there are two existing vehicular accesses to the site; to the north of the site, there is an access onto Bradley Mills Road via a roundabout, Bradley Mills Road joins Leeds Road just to the north west of the site at a traffic-controlled junction. To the south of the site, there is an access onto Stadium Way. This links to Gas Works Street (on the opposite site of St Andrews Road) and hence into Leeds Road to the west. The site is bounded by a residential estate to the north-west, commercial uses to the north, existing leisure uses to the east (cinema, stadium, health club) with an undeveloped tree-covered slope beyond; the line of the river to the south and west and beyond these, the commercial developments located on St Andrews Road.

The site comprises an area of slightly over 11 hectares, existing uses comprise; surface car parking for the Stadium and existing leisure uses, a golf driving range and open, undeveloped areas. These open areas include a playing area near the existing housing to the north, a 'finger' of land extending to the south of the site which is overgrown and tree-covered areas mainly around the site boundaries (including a section of the slope to the east of the site).

In terms of topography, the site forms several, distinct areas:

- The area at the northern end of the site between the stadium and Bradley Mills Road (on both sides of the river) is basically level and at the same ground level as the stadium itself: around 58m AOD (the riverbank at this point is around 56m AOD).
- The bulk of the site to the south of the stadium forms a series of plateaux at between 69-72 AOD.
- The southern (narrowest part of the site) and eastern area slope up to the east, rising from around 62m AOD to between 104-109 AOD.

The site can be described as in part 'greenfield' but predominantly 'brownfield' (that is, previously developed, using the definition in NPPF Annex 2).

## **The Proposal**

The application seeks an extension to the time limit to previous permission 2008/92865 for the erection of a multi-use leisure and entertainment development with ancillary facilities plus hotel, office and residential uses.

Within the supporting planning statement it is noted the down turn in the economic climate severely curtailed movement on the HD1 development scheme between 2010-2014 but over the last couple of years, considerable progress has been made. The statement goes on to say that the make-up and design of the scheme is being finalised ready for the submission of reserved matters, but due to the complexity of the development scheme this will take further time to complete, beyond the expiry date of the original outline planning permission. Accordingly, an extension of time is requested.

The application is in outline only, with all matters reserved. The 2008 application included details of the proposed uses and the areas within the site where these would be located, the amount of development proposed for each use, an indicative layout of the site and indicative access points. It is noted in the updated Planning and Transport Statement however, that whilst the individual components of the earlier consented scheme remain, the floorspace of each has been amended, and in most cases reduced. A masterplan Ref 3794-01-cx02-L04 revision F has been submitted with the application, and paragraph 4.21 of the TA references the following:

- A1 Non Food Retail - 1,775 GFA
- A1 Food Retail - 545 GFA
- A3 Food and Drink – 5,390 GFA
- B1 Office - 1450 GFA
- D2 Leisure Uses 11,138 GFA
- C1 Hotel – 10,000 sqm GFA
- C3 Residential – 140 apartments

#### **4. BACKGROUND AND HISTORY**

Prior to the construction of the stadium, the northern area of the site was part of a chemical works which operated until the 1970s. Between 1900 and 1930, the southern part of the site was occupied by a colliery with several mine shafts. This part of the site has been extensively tipped, reportedly as early as 1890 and certainly up until around 1980, with the licence to tip being cancelled around 1990.

In relation to previous planning applications, of direct relevance are:

92/62/02329 – Sports stadium with ancillary and associated facilities including car parking, golf driving range and dry ski slope. Approved 8.9.92. The ski slope was to be located on Kilner Bank, although in a different position to that now proposed.

92/62/05859 – Change of use of previously approved gym area to ten pin bowling and Outline application for single storey extension. Approved 15.3.93.

93/61/00341 – Golf driving range and club house (Reserved Matters). Approved 31.12.93.

94/62/90393 – Leisure development including multi-screen cinema, ten pin bowling and ancillary entertainment facilities. Approved 29.4.94. This also included the provision of car parking on the opposite side of the river, between the river and the housing on Town estate.

95/62/93346 – Modification to above permission. Approved 1.11.96.

96/62/90395 – Revised scheme for North Stand and integrated business and leisure facilities. Approved 9.7.96.

04/62/93105 – Infill development (2 floors) to form new frontage including new ticket office, extended superstore, reception and commercial offices above. Approved 25.8.04.

2008/92864 – Outline application for erection of multi-use leisure and entertainment development with ancillary features plus hotel, office and residential uses – Section 106 Outline Permission

2014/92610 – Outliner application for formation of snow sports slope (modified proposal) – Section 106 Outline permission

2016/92066 – Erection of hotel with associated external works including car parking, servicing and landscaping including realigning of access road – Approval by Strategic Committee. Pending Issue of Decision

2016/92177 – Reserved Matters application for the formation of snow sports slope and associated facilities pursuant to outline permission 2014/92610 for Outline application for formation of snow sports slope (modified proposal) – Pending Decision

2016/92195 – Reserved Matters application (relating to Landscaping) for the formation of snow sports slope and associated facilities pursuant to outline permission 2014/92610 for outline application for formation of snow sports slope (modified proposal) – Pending Decision

## **5. PLANNING POLICY**

The part of the site between Town Estate and the river is mainly annotated as Derelict Land on the UDP proposals map (the area around The Zone is unallocated). The majority of the site beyond the river (to the east) is annotated for the stadium development on the UDP proposals map, apart from the ‘finger’ of land projecting to the south end of the site and the rectangle projecting onto the hillside to the south east, both of which lie within identified areas of Urban Greenspace on the UDP proposals map. An identified Green Corridor runs along the top of the bank to the south east of the site.

The entire site lies within the Regeneration Area for Huddersfield identified on the UDP Proposals Map.

The site lies within the boundary of the Kirklees Strategic Economic Zone, as identified in SPD1.

### **Kirklees Unitary Development Plan:**

The most relevant UDP policies in the determination of this application are:

- G1 - Regeneration.
- G6 - Contamination and instability.
- D1 - Loss of valuable open land.
- D2 - Development on land without notation on the UDP proposals map.
- D3 - Development on sites designated as Urban Greenspace.
- D6 - Development on land adjoining Green Corridors.
- NE5 - Wildlife corridors.
- NE9 - Retention of mature trees.
- BE1 - Quality of new development.
- BE22 - Parking for disabled users.
- BE23 - Crime prevention.
- EP4 - Noise sensitive development in proximity to sources of noise.
- EP6 - Development which generates noise.
- EP11 - Enhancement of ecology.
- EP30 - Development involving prolonged construction work.
- T1 - Integrated transport provision.
- T10 - New development and highway safety.
- T16 - Pedestrian routes and new development.



T17 - Facilities for cyclists and new development  
T19 - Parking and public transport provision.  
DL1 - Derelict and neglected land.  
B1 - Meeting the employment needs of the District.  
B14 - Proposals for major hotels and conference facilities.  
H1 - Meeting the housing needs of the District.  
H10 - Affordable housing provision.  
H12 - Affordable housing retention.  
H18 - Open space for new housing.  
C13 - Provision of accessible facilities/baby changing/feeding.  
S1 - Town and local centres.  
R1 - New recreational facilities.  
R13 - Consideration of new links to the public rights of way network.  
R18 - Proposals adjacent canals and rivers.  
TC32 - Major developments outside the ring road: pedestrian links.

### **National Planning Policy Framework:**

Chapter 1 – Building a strong, competitive economy  
Chapter 2 – Ensuring the vitality of town centres  
Chapter 4 – Promoting sustainable transport  
Chapter 6 – Delivering a wide choice of high quality homes  
Chapter 7 – Requiring Good Design  
Chapter 8 – Promoting Healthy Communities  
Chapter 10 – Meeting the challenge of climate change, flooding and coastal change  
Chapter 11 – Conserving and enhancing the Natural Environment

### **Other policy considerations**

SPD2 – Affordable Housing

## **6. CONSULTATIONS**

Below is a summary of the consultation responses received; where appropriate these are expanded upon in the assessment section of this report:

**Secretary of State** – No comments

**K.C Highway Services** – No objections

**K.C Environmental Services** – No objections

**K.C Arboricultural Officer** – No objections

**K.C Conservation & Design** – No objections

**K.C Ecologist** – Issues Raised

**K.C Flood Management** – No objections

**Health and Safety Executive** – Recommend against the granting of planning permission

**Yorkshire Water** – No objections

**Canal & River Trust** – No comments to make

**West Yorkshire Police architectural Liaison Officer** – No objections

**The Coal Authority** – No objections

**K.C Public Rights of Way** – No objections

**Parks & Recreation** – No objections

**Natural England** –No comments to make

**Sport England** – No comments to make

**Environment Agency** – No objections

## **7. REPRESENTATIONS**

The application was advertised by site notice and press notice expiring 19<sup>th</sup> August 2016.

One representation has been received from a resident on Bradley Mills Road. The main concerns raised are as follows:

- Concern about additional traffic using Bradley Mills which is used as a rat run and carries too much traffic. The road is narrow with not enough space for cars and pedestrians and the upper level above the Dalton Grange is collapsing.
- Concern about the problems of traffic during match days as the reduced amount of parking spaces will force cars to park around Bradley Mills Road and Rawthorpe.
- Concern about late night taxi's and anti-social behaviour
- Concern about additional rubbish around Bradley Mills Road by car users and pedestrian's.
- Concern about the noise levels in the day and at night.
- Concern about a greater risk of crime
- Concern about noise level and pollution of dust dirt during construction.

## **8. ASSESSMENT**

### **General Principle:**

This application is made under the now withdrawn Extension of Time Limits for implementing existing planning permission which was detailed within the Government's publication *Greater Flexibility for Planning Permissions*. This measure was introduced in order to make it easier for developers and local planning authorities to keep planning permissions alive for longer during the economic downturn so that they can more quickly be implemented when economic conditions improve. This procedure allowed applicants to apply to their local planning authority for a new planning permission to replace an existing permission which is in danger of lapsing, in order to obtain a longer period in which to begin the development.

The outcome of a successful application will be a new permission with a new time limit attached. During the Economic downturn of 2008-10, local planning authorities were advised by government to take a positive and constructive approach towards applications which would improve the prospect of sustainable development being taken forward quickly. The development proposed in an application for extension will by definition have been judged to be acceptable in principle at an earlier date. Local planning authorities may refuse applications to extend the time limit for permissions where changes in the development plan or other relevant material considerations indicate the proposal should no longer be treated favourably.

Outline planning permission was granted for a multi-use leisure and entertainment development in 2010. The site is of such a scale that several different UDP notations cover parts of the site. The site is allocated as a proposed mixed use development in the Local Plan, however the Local Plan is not yet at a stage where significant weight can be attributed, and the UDP allocations remain relevant. These are considered in turn:

#### *1) Regeneration Area:*

This notation refers to paragraph 1.14 of the Written Statement to the UDP, which notes Kirklees legacy of industrial activity which has left environmental problems, compounded by more recent economic changes such that unemployment levels are persistently high in some parts of the District. It states that "The Council is pursuing policies to promote regeneration ... encompassing measures to revitalise the local economy [and] improve the physical environment. ... The plan's provisions ... aim to provide the appropriate framework for land use and development decisions, which will assist the process of regeneration. In particular, the areas which exhibit the most severe problems arising from past and current land uses, which tend to be the most economically deprived parts of the District, are identified on the proposals map as Regeneration Areas." The proposal has the potential to be a key driver in the regeneration of this area and fully accords with this notation.

*2) Area notated as Derelict Land:*

The part of the site between Town Estate and the river is mainly annotated as Derelict Land on the UDP proposals map. Policy DL1 of the UDP states that “Derelict and neglected land will be brought into beneficial use to assist in the regeneration of the District”. The land has already been brought back into use as parking and open space, in line with the objectives of the policy. To develop this land in the way proposed would further support those objectives.

*3) Area notated as Stadium:*

The majority of the site beyond the river (to the east) was annotated for the stadium development on the UDP proposals map. UDP policy R5 relating to this notation was not saved beyond September 2007 since the stadium had already been delivered. Because of this the proposal falls to be considered against UDP policy D2 (unallocated land).

*4) Area notated as Urban Greenspace:*

The ‘finger’ of land projecting to the south end of the site and the rectangle projecting onto the hillside to the south east, both lie within the much larger area of Urban Greenspace identified on the UDP proposals map. UDP policy D1 states that “Development proposals which would lead to a loss of valuable open land within towns ... will not normally be permitted. The UDP Written Statement at paragraph 2.12 (supporting policy D3) explains that “Exceptionally, there may be a case for areas within designated urban greenspace to be released for development not associated with open land uses, where it can be shown that the proposed development would result in a specific benefit to the community. The community benefit might take the form of ... sport, recreation, health or social facilities.” Policy D3 states that “On sites designated as urban greenspace, permission will not be granted unless the development proposed is ... necessary for the continuation or enhancement of established uses or involves changes of use to alternative open land uses, or would result in a specific community benefit, and, in all cases, will protect visual amenity, wildlife value and opportunities for sport and recreation.”

The proposal involves a ski slope on the Urban Greenspace area: for reasons of topography this is the only feasible location for it, moreover, it is essentially an “open land use”, in accordance with policies D1 and D3. Even if it were to be concluded that this were not an “open land use” then it is considered to be an “exceptional” circumstance of the nature set out above, providing direct community benefits in terms of recreation/sporting facilities. The proposal also includes development on the ‘finger’ of land at the south end of the site, which effectively lies between the bottom of Kilner Bank and the river. This would involve either direct provision of sport, recreation, health or social facilities (as required by UDP Written Statement paragraph 2.12) or ‘enabling’ development for the community benefits to be realised, in terms of supporting the overall package of leisure uses proposed for this site including sport, recreation and social facilities. In total, only a small part of the area designated as Urban Greenspace is considered for development and the remaining Greenspace would safeguard the balance within the urban area. The function and quality of the Greenspace, in terms of visual backdrop to

Huddersfield centre could be maintained (this would be subject to enhancement works which could be secured via a permission). In the light of this it is concluded that this proposal would be in line with policy.

*5) Area without notation:*

The area around The Zone has no specific allocation in the UDP. This part of the site would provide a vehicular access/egress and the existing car park to The Zone would be re-designed to accommodate this. Policy D2 of the UDP states “planning permission for the development ... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]”. There are no specific policies relating to this aspect of the proposal and all these considerations are addressed later in this assessment. Subject to these not being prejudiced, this aspect of the proposal would be acceptable in principle in relation to policy D2. Subject to all other policies and guidance, the principle of the development (in relation to UDP notations) is considered to be acceptable.

### **Principle of Development: Proposed Uses**

There have been material changes to planning policy and guidance since the previous grant of planning permission with the introduction of the National Planning Policy Framework (NPPF) and Planning Practice Guidance. This document and guidance replaced previously applicable Planning Policy Statements and Guidance notes. The assessment below re-evaluates the proposed uses in light of the legislation changes.

#### **Sports and Recreational Facilities**

*1) Facilities within the site:*

Chapter 8 of the NPPF states to deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments. Paragraph 74 states access to opportunities for sport and recreation can make an important contribution to the health and well-being of communities.

The Stadium is already established as a leisure destination and is considered to be an appropriate out of centre location for such development. It was concluded in the previous application that there were no other sequentially preferable sites capable of accommodating such a scale of development, on the basis that the individual uses that make up the HD1 proposal cannot be disaggregated then this remains the case. The site is within the identified Kirklees Strategic Economic Zone where regeneration is sought and promoted and the site is predominately brownfield. The site is considered to be potentially highly accessible (having already been selected for the Stadium itself), as close to the town centre as is possible given the scale of the development and unable to be in a more central location.

## *2) Loss of existing golf driving range:*

The revisions to national planning policy do not impact on this matter. The driving range is to some extent an 'interim' land use, being located within the KSEZ and being on a short-term lease from KSDL. As such, the use could be terminated within a reasonably short period of time, regardless of this application, in order to secure a more economic use of this land which is relatively close to the town centre. In the light of this, and the fact that this facility could reasonably be located within a less central area (outdoor sport and recreation being uses that are acceptable in principle within Green Belt), loss of the facility is not considered to be a significant consideration (it is not a playing field as such). Open space and sports/recreational facility issues are capable of being addressed.

## Town Centre Uses

Annex 2 of NPPF defines "main town centre uses", these include the following elements of this proposal:

- retail development
- leisure, entertainment facilities and the more intensive sport and recreation uses (including restaurants, bars and pubs, night-clubs, casinos, indoor bowling centres and bingo halls)
- offices
- hotels and conference facilities

Paragraph 23 of the NPPF states local planning authorities should allocate appropriate edge of centre sites for main town centres uses that are well connected to the town centre where suitable and viable town centre sites are not available. As noted, this site has been allocated as a mixed use development on the draft local plan. Paragraph 24 of the NPPF states Local Planning Authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations, and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.

Paragraph 26 of the NPPF states that when assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500sqm). This should include an assessment of the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment of the proposal; and the impact of the proposal on town centre vitality and viability, including local

consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.

In this case, the principle of main town centre uses being included as part of the HD1 proposal has already been established and this is reflected in the mixed use allocation identified in the emerging local plan. It is noted that the current application seeks less Main Town Centre use floorspace than the permission it seeks to replace. In considering the acceptability of the extension to time limit, it is inevitable that there will be some impact on the town centre, however given that the individual uses cannot be disaggregated, it is considered that there have been no material change in circumstances since the previous approval that would warrant a refusal of the extension to time limit.

### Housing

This application is in Outline only with all matters reserved, hence the site as a whole is considered as potential 'location' of new housing, rather than any specific part of it. Given the previous uses of main body of the site in connection with ICI, the site should be considered as 'brownfield'. Since this is an Outline mixed use scheme, there is no clear definition of the 'limit' of the residential area, hence no precise density can be given. The density would however exceed 30 units per Hectare (140 apartments are proposed) and support the delivery of housing as set out in UDP policy H1. The scheme is in Outline only, but involves provision of apartments in an area of predominantly two storey family housing. This would contribute to the mix of house types in the locality.

UDP policies H10 and H12 set out that the provision of affordable housing is a material consideration and that where secured it must be retained. This follows from UDP policy H1 which states that affordable housing provision will form part of the means by which the housing needs of the District will be met. This Council also has an updated SPD on affordable housing (adopted November 2008) which requires a certain percentage of the gross internal floor space to be allocated as the affordable housing element of any scheme. Since this application is in Outline only, the gross internal floor spaces of the proposed units have not yet been finalised. Because of this, the final requirement cannot yet be calculated. This can be secured via a s106 legal agreement once this information is known.

That area of site proposed for housing exceeds 0.4 Ha. UDP policy H18 normally requires on-site provision of public open space to serve the needs of the development or alternatively off-site provision where facilities are available. In this case, there are several reasons why off-site facilities would be preferred:

- Effective management of any remaining on-site contamination: this would not be best addressed by areas of open land on the site (contamination issues are addressed in full later in this assessment).

- The development proposal is deliberately intensive, to make best use of the opportunities close to the Stadium and town centre and best use of land generally.
- The type/distribution of dwellings is not yet known and the residential use is a relatively small element of a larger scheme. The scheme is in Outline only with all matters reserved.

This can be addressed by condition.

#### Regeneration impacts:

UDP policy G1 states that “Regeneration will be secured through developments which:

- Strengthen and broaden the economic base and increase employment opportunities;
- Improve infrastructure and secure the re-use of land and buildings and the improvement of their surroundings;
- Benefit the economically deprived parts of the District; and
- Improve the District’s image.

The investment secured through the proposed development would be in a location where a high level of positive impact could be achieved. The applicant has stated the intention to seek a local workforce as far as possible and the location of the site would help to facilitate access to job opportunities for these deprived communities.

The scheme would be a significant employment generator. Based on the floorspaces of the uses applied for, the applicant estimates a net additional employment impact of 912 FTE (full time equivalent jobs).

The location of the site is considered to be sustainable, given the public transport linkages (set out later in this assessment) and cycle and pedestrian accessibility (again set out later). It would also re-inforce the role of the existing Stadium and related leisure facilities as the key “leisure hub” location in Huddersfield.

Almost all the site is brownfield (that is, previously developed) land and is contaminated (addressed later in this assessment). The scale of the scheme has the potential to secure the necessary funding to address these contamination issues and improve the site and its surroundings.

The scheme could also have a positive benefit for the District’s image: providing a “leisure destination” close to Huddersfield town centre and providing a range of attractions not currently available in the District.

The scheme would have positive regeneration impacts, policies and guidance are addressed.



### Access Considerations:

UDP policy T10 states that “New development will not normally be permitted if it will create or materially add to highway safety or environmental problems or, in the case of development which will attract or generate a significant number of journeys, if it cannot be served adequately by the existing highway network and by public transport. Proposals will be expected to incorporate appropriate highway infrastructure designed to meet relevant safety standards...”

Since the 2008/92864 approval the applicant has taken the opportunity to update the Transport Assessment and consideration of this application is therefore based on the following:

- Transport Assessment dated June 2016;
- The HD1 Travel Plan (Revision H) dated November 2009;
- Planning Statement dated June 2016;
- The HD1 Transport Assessment (Revision C) dated October 2009.

The assessment in transport terms is inevitably a comparison between the previously consented scheme (2008/92864) and the current extension of time application (2016/92122) in terms of the scale of proposed development, the generation of highway trips, collision data, parking and proposed mitigation. Comments are also to be made about the change in the transport baseline between 2008 and the current day and the adequacy of the proposed mitigation measures proposed.

In terms of the change in the scale of development, the 2016 Transport Assessment highlights that the total development floorspace is now proposed to be reduced by approximately 40% from 35,605m<sup>2</sup> to 20,623m<sup>2</sup>. The land use comparison is as follows:

Proposed Floorspace – Previously Consented versus Current Application

	Previously Consented 2008/92864	Current Application 2016/92122	Difference
Class A3 Restaurants and Bars	11,549 m <sup>2</sup>	5,365 m <sup>2</sup>	-6,184 m <sup>2</sup>
Class A1 Food and Non-Food	1,073 m <sup>2</sup>	2,320 m <sup>2</sup>	+1,247 m <sup>2</sup>
Class B1 Office	8,169 m <sup>2</sup>	1,450 m <sup>2</sup>	-6,719 m <sup>2</sup>
Class D Leisure	14,814 m <sup>2</sup>	11,488 m <sup>2</sup>	-3,326 m <sup>2</sup>
Hotel	145 (beds)	145 (beds)	0
Residential Apartments	140 (no.)	140 (no.)	0

Trip generation estimates for the proposed development have similarly reduced. Using the same methodology as for the 2008 application where trip rates were agreed and a linked trip discount of 28% for leisure, 10% for office and 90% for convenience store uses were applied, the comparison of generations between the previously consented scheme and the current application is as follows:

#### Weekday PM Peak Hour Vehicle Trips

	Vehicles		
	In	Out	Two-Way
Previously Consented Scheme	368	323	691
Current Application	270	181	451

#### Saturday Peak Hour Vehicle Trips (non-matchday)

	Vehicles		
	In	Out	Two-Way
Previously Consented Scheme	434	308	742
Current Application	387	273	660

The assignment of development trips to the network remains exactly as assessed in the 2008 application and is based on a gravity model utilising a 30 minute drive time for census population data as follows:

#### Assignment of Development Trips to the Network

Approach Route	% Assignment	Weekday PM Peak (Two-Way)	Saturday Peak (Two-Way)
A629 Wakefield Road	26%	117	172
A62 Leeds Road	16%	72	106
A62 Castlegate	5%	23	33
Northumberland Street	2%	9	13
Lower Fitzwilliam Street	22%	99	145
Hillhouse Lane	10%	45	66
Bradley Mills Road	19%	86	125

Baseline conditions in the general vicinity of the site have not been reviewed in the revised TA but reference to available data does suggest very little growth over the last 10 years in overall traffic flows along the A62 corridor and therefore the traffic counts utilised in the original TA are still considered to be representative. Some notable development proposals have come forward in the immediate vicinity since the 2008 TA was prepared including the Gas Works site and the Tesco proposal on the site of the former sports centre. The cumulative assessment of sites was tested as part of the Tesco application so Kirklees Highways are satisfied that the analysis and resulting mitigation is representative.

The proposed access arrangements to the development site remain as previously proposed. The main point of access is via Stadium Way from St Andrews Road. A new access off Bradley Mills immediately north-west of the River Colne bridge will provide the secondary access and the existing Bradley Mills Road / Odeon Cinema access will also provide access to the site.

The application site currently accommodates 1005 surface level car parking spaces. Most of these are accessed via Stadium Way and are used only on events days. A proportion of these are utilised as contract parking spaces for local businesses during the week so there is a limited amount of vehicular activity during the week. Some of the spaces are associated with existing leisure uses located off Bradley Mills Road at the north of the application site and these spaces are well used. The proposal is to provide 1,591 car parking spaces to support the leisure uses arranged mainly in five main multi-storey car parks located on the edge of the development areas. The residential units will have their own secure dedicated parking allocation.

Based on the floorspace of individual land uses proposed by the development, up to 3,800 parking spaces could be justified by applying current parking standards. However, it is expected that visitors to the development would use multiple land uses in a single trip and therefore it is appropriate to reduce the parking allocation to approximately 40% of the maximum permitted. This scale of discount has been assessed by reference to similar developments elsewhere and Kirklees Highways have accepted as appropriate the level of parking proposed which reached a maximum occupation of approximately 90% in the Saturday early evening period.

Dedicated matchday parking of 932 spaces will be provided by Car Park E. This is approximately comparable to the existing matchday provision. The Stadium operators have a management plan for the operation of parking on events days (including football and rugby) and this is controlled by the Event Panel involving the use of stewards and the Police. It is intended to roll forward the existing management regime to cover the proposed development. The applicant has submitted a car park management plan and the principles, which include charging for all spaces, are accepted by the Council at this outline stage.

A number of mitigation measures were identified as required for the 2008 application. It is the considered opinion of Kirklees Highways that these mitigation measures are still required and that the same conditions and Section 106 obligations should be applied to this application if consent is granted. For the avoidance of doubt, these mitigation measures include:

- A contribution to be used for improving the A629 Wakefield Road / St. Andrews Road junction;
- Signal crossing facilities at the St Andrews Road / Stadium Way junction in the form of dropped kerbs and signal control;
- New site access junction of Bradley Mills Road;

- Introduction of a bus route through the site in accordance with the proposals set out in the 'Bus Feasibility Report (Revision A) dated October 2009 or, if this is not achieved, the provision of a shuttle bus service linking the site with the town centre bus and railway stations to a frequency to be agreed with Kirklees Council;
- Footway widening along Stadium Way to enhance the pedestrian environment;
- Preparation of a Car Park Management Plan for each phase of development in accordance with Appendix D of the Framework Travel Plan (Revision H) dated November 2009;
- Proposals at the detailed design stage for the provision, maintenance and management of a riverside walk route;
- Preparation and implementation of a Travel Plan for each phase of development including the appointment of a Travel Plan Coordinator and the setting up of a steering group;
- A contribution to the Kirklees Strategic Employment Zone in line with SPD1.

Based on this analysis of the development proposal, its impact on transport networks and the proposed mitigation measures, the proposals are considered acceptable and the Highways Service has no wish to resist the granting of planning permission subject to appropriate conditions and a S106 agreement.

### **Drainage and Flood Risk Issues:**

The NPPF sets out the responsibilities for Local Planning Authorities in determining planning applications, including flood risk assessments taking climate change into account and the application of the sequential approach. This site is located within flood zones 1, 2 and 3a.

Flood Management raise no objection to an extension of time application, subject to conditions from the previous approval being carried forward. These include details of finished floor levels and an assessment of flood storage, a scheme to be submitted for surface water management, and for the development to be carried out in accordance with the FRA.

The Environment Agency raise no objections subject to the development being carried out in accordance with the Flood Risk Assessment Ref 1011828, RPT-001) and the following mitigation measures it details. These include that the ground floor and first floor in the part of the development that is situated in flood zone 3, marked 'Area B' in drawing number SK-CL-001 shall be used for parking only, and that the ground floor shall be set now lower than 59/950m AOD and the first floor no lower than 62.950m AOD. Two other conditions are also suggested which include a scheme demonstrating any raising of ground levles within flood zone 3 will be compensated for on a level for level, volume for volume basis and a scheme for the design of the two footbridge crossings.

In respect of the sequential and exceptions tests previously undertaken, there have been no material changes since the previous approval which challenge the previous conclusions. Due to the scale and nature of the development, there are considered to be no reasonably available sites in Flood Zones 1 or 2, as a result of this it is appropriate to consider the suitability of this site, part of which lies within Flood Zone 3a. Dis-aggregation to remove the more 'sensitive' elements of the scheme has not been considered since it is accepted that there is a need to achieve a 'critical mass' of uses in order to secure commercial viability.

This is a key scheme within the KSEZ, providing employment-generating uses that would contribute to health and recreation, generate traffic movement patterns that can be accommodated within the highway network and potentially supporting the regeneration and employment development of the wider KSEZ area. It is considered that in the context of the KSEZ area (much of which is also within identified flood areas) that the wider sustainability benefits to the community would outweigh the risk of flooding.

#### **Contaminated land / Health and Safety issues:**

In the Environmental Statement for this application, Chapter 10 regarding contaminated land is a review of previous reports. Environmental Services raise no objections to the extension to time limit, however in order to take into account changes in guidance and changes that may have occurred on site, they request the submission of an updated Phase I Report, and all subsequent reports. This can be addressed through condition.

The application site falls within the defined Development High Risk Area where there are coal mining features and hazards which need to be considered. A Coal Mining Risk Assessment has been submitted which identifies that shallow coal and possible fireclay mining beneath the site pose a high risk to the development. The report makes recommendations for the carrying out of intrusive ground investigations in the form of boreholes in order to investigate ground conditions and the depth and condition of shallow coal seams. The Coal Authority concurs with the recommendations, including that a programme of mine gas monitoring should be undertaken. The extent of the intrusive site investigations needs to be agreed with The Coal Authority's Permitting Team, and the findings inform the remedial/ mitigation measures required in order to remediate mining legacy affecting the site and to ensure the safety and stability of the proposed development.

The report also acknowledges the presence of recorded mine entries and concludes they pose a high risk to the development. The Coal Authority welcomes the recommendation for the undertaking of drilling on a grid pattern to locate the mine shaft and adit, followed by the stabilisation of these features by grout insertion and capped to Coal Authority requirements. Whilst the Coal Authority acknowledges that all matters are reserved for future approval, they note the illustrative masterplan layout does not attempt to avoid the mine entries and as such they would expect information to be provided to

demonstrate how the safety and stability implications posed by these features are to be satisfactorily addressed. With reference to mine shaft 415416-001 located towards the southern end of the site, a feature is annotated on the OS plan as 'shaft' which suggests that the precise location of the feature is evident at surface. As this feature lies outside the control of the applicant, the Coal Authority would expect the potential zone of influence of this shaft (in the event of an off-site collapse) to be factored into the detailed layout of the development and appropriate mitigation measures to be adopted within the design and layout of this part of the site to address such an eventuality.

The Coal Authority raises no objections, subject to the inclusion of conditions to secure the site investigation works, and any subsequent remedial work.

The site lies to the south of existing operations at the Syngenta site that are covered by regulations requiring identification of consultation zones. Additionally, the site lies to the east of the former gas works site which, whilst no longer operational (and with planning permission for re-development), still technically has consultation zones in place. Within these zones, the Health and Safety Executive comment upon proposals for development and in this case, they consider that there are sufficient reasons on safety grounds, for advising against the granting of planning permission in this case. In this situation, if the Council is minded to grant permission, notice is to be given to the HSE for them to consider whether to request that the Secretary of State for Communities and Local Government call-in the application for their own determination. If Members are minded to recommend approval, it will be necessary for the application to be delegated to officers to notify the Health and Safety Executive.

A high pressure gas main runs behind the existing stadium, across the area occupied by the golf driving range and then directly west beneath the river to St Andrew's Road. It will be protected by an easement. In the previous application Northern Gas Networks advised on recommended distances between the pipeline and buildings/trafficked routes and these can be taken into account in the detail of the Reserved Matters, since location is not applied for at Outline stage.

### **Noise and Disturbance:**

UDP policy EP4 addresses impacts between noise generating and noise sensitive developments and policy EP6 expands upon this in relation to projected noise levels.

#### *Noise and disturbance from the construction phase:*

As noted in the previous outline application this development has potential to generate noise during the site preparation and construction phases. This is a very large development which will take place over a number of years and in order to mitigate the impacts of this, it is essential that the hours of operation and noise generated are considered. An advisory note on hours of operations together with conditions addressing site compound location, attached to any permission for this development would be considered appropriate.

*Noise and disturbance generated by users of the development: impact on existing housing and proposed housing :*

It is a material consideration that the existing uses at this site already generate a certain amount of noise and that these uses are not subject to any hours restrictions (neither the buildings nor the car park to the rear of Town estate are subject to any restrictions). The applicant has confirmed that the stadium can operate 24 hours a day, 7 days a week and that at the present time, early starts and late finishes (for example 3am event finish times) form part of their normal operations. This is a relevant factor when considering what controls could be reasonably imposed (under the tests set out in Circular 11/95) on a permission for the current proposal.

The development involves commercial and leisure uses which would have the potential to generate noise and disturbance to residents within and adjacent the site. This would include noise from the buildings themselves (including from extract/ventilation systems) as well as transportation noise from access/car park areas. The development, once occupied, would involve noise-sensitive uses (housing) being located in close proximity to noise sources (existing industrial/commercial uses, both existing and approved, as well as the proposed commercial elements of the development).

Whilst details of precise location, design and scale of these uses would form part of a Reserved Matters submission, conditions are requested by Environmental Health Officers. Based on the information supplied in the noise report, Pollution and Noise Control request a further noise investigation is undertaken to specify the measures to be taken to protect the occupants of nearby noise sensitive premises (existing and proposed) from noise from the proposed development. Noise issues can be addressed by condition.

*Other potential disturbance: light pollution:*

The scale and nature of this proposal is such that a variety of lighting will be required throughout the development, which has the potential to have such an impact, if not properly managed. In addition, users of the development will also increase light levels. Environmental health officers raise no objection to the extension of time application subject to the inclusion of a condition for a scheme which indicates the measures to be taken for the control of any glare or stray light arising from the operation of artificial lighting.

**Air Quality Issues:**

Since the production of the previous report, Environmental Health officers note there is now a greater understanding of air quality issues on a local level which has led to the declaration of two Air Quality Management Areas. The application has been reviewed in accordance with the West Yorkshire Low Emission Strategy Planning Guidance, and it is recommended that prior to development commencing the applicant must provide a Full Air Quality Impact Assessment including calculating the monetary damages from the development and agree appropriate mitigation measures with the local authority. The monetary value of the damages should be reflected in money

spent on low emission mitigation to ensure the development is more sustainable in terms of air quality. This can be addressed through condition, and a subsequent s106 agreement.

It is also advised that electric vehicle charging points to encourage the use of low emission vehicles be provided in 10% of parking spaces which may be phased with 5% initial provision and the remainder at an agreed trigger level. The developer will also be required to provide the local authority with a low emission travel plan, including all commercial vehicles operating from the site to comply with current or the most recent European Emission Standards from scheme opening, to be progressively maintained for the lifetime of the development. The value of low emission mitigation should reflect the damage costs associated with the development.

These matters can be addressed by condition.

### **Indicative Layout:**

The development is in outline only, with all matters reserved for subsequent approval. The scale of the proposal, the locations from which it would be viewed and the location adjacent to a recognised 'landmark' structure (the stadium) mean that a final submission that adheres to the principles of good urban design will be essential.

Comments have been received from Parks and Recreation that very little information has been provided on the landscape proposals. The planning statement does not elaborate or define the landscape concept, the quality or potential for enhancing the hard landscaping proposed. Furthermore, the Public Rights of Way section note the provision for public access in the indicative plans is poor, particularly along the riverside corridor. The applicant was approached to provide further information regarding these matters, but no further details have been received at this stage. Accordingly, these matters will be addressed at reserved matter stage.

The West Yorkshire Police Liaison Officer raises no objections to the renewal of the outline application. Further detail would be sought as part of a future reserved matters application that includes sufficient and commensurate crime prevention measures that are intended to be incorporated in the design of the development.

### **Ecological Issues:**

The ecological update report relies on the argument that habitats within the site remain largely unchanged, therefore the nature of ecological impacts has not changed. This approach is unsound as it assumes that the ecology of any particular site operates in isolation and is not influenced by, or influences, areas in the wider landscape. This is particularly untrue for the site in question, which lies in an area with optimal habitat connectivity with the wider landscape via the River Colne and identified Kirklees Wildlife Habitat Network.



The vast majority of survey data is at least 8 years old, which cannot be relied upon as a basis for a robust assessment of the nature of ecological impacts.

In relation to bats, the habitats present are unlikely to provide suitable roost sites and roosting bats are therefore unlikely to be directly impacted, which would otherwise trigger the need for the council to consider the derogation tests of the Habitat Regulations.

Notwithstanding the potential for the site to support roosting bats, development of this scale in this location is likely to result in significant ecological impacts unless adequate mitigation is implemented. Due to the location of the site and the nature of the development, including river crossings, impacts to invertebrates, nesting birds, foraging bats, badgers, otters, water voles and white-clawed crayfish are likely or possible. Ecological enhancement, proportional to the scale of the development, will also be required.

In order to provide certainty in the nature of predicted ecological impacts, the requirement for ecological mitigation, and opportunities for ecological enhancement, further survey is required. Further survey should be targeted at species for which mitigation measures are likely to be required, and for which specific enhancement will be proposed. A number of suggested conditions are provided to secure suitable mitigation and enhancement. These include the submission of a landscape and ecological management plan, a construction environmental management plan, a lighting design strategy for biodiversity, and for appropriate updated surveys information dependent on the phasing of the development.

In addition to the measures secured through the conditions, there is a requirement to compensate for the loss of an area of the Kirklees Wildlife Habitat Network at Kilner bank, which will be lost in order to construct the ski slope. Off-site habitat creation will be required, which should be secured through a planning obligation.

#### **Matters to be included in a supplemental s106 planning agreement:**

The nature and complexity of this proposal generates a number of issues where matters cannot be secured by conditions alone: a s106 legal agreement would be necessary to secure the provision, phasing, retention and funding of certain aspects of the proposal. It is considered those matters secured by the 2008 approval remain relevant. These are as follows:

**1) Public Transport and Travel Plan Measures:** Funding to provide and run a shuttle bus service between key town centre locations and the site. This would be the 'fall-back' position should there be no early take-up of the (tested/feasible) option to re-route the existing commercial service along Leeds Road through the site. Continuation beyond the specified initial period of 5 years would be dependent upon a number of factors including route take-up by a commercial company and rate of build-out. Funding is as agreed with Kirklees Highways Officers. Provision of a Lead Travel Co-ordinator is set out in the Travel Plan, since this requires ongoing funding of the post, in addition to costs associated with monitoring and so on, it is included within the s106.

**2) Local Highway Works: KSEZ:** The timing and amount of contribution has been established in consultation with Highways Officers. The contribution would be subject to final analysis at a later stage.

**3) Local Highway Works: St Andrews Road junction:** Works to Wakefield Road / St Andrews Road junction will be necessary

**4) Local Highway Works: Gas Works Street/Thistle Street:** all works and costs associated with establishing the gyratory including capital works costs and all associated traffic regulation orders costs would need to be funded in full.

**5) Ecology/biodiversity works:** off-site management for neighbouring heathland project, provision of crush footpath around and gate at heathland site.

Matters proposed to be included within the supplemental s106 legal agreement address issues raised by consultees.

**Issues raised in representations on the application:**

One representation has been received. Insofar as the matters raised have not been addressed above:

Concern about additional traffic using Bradley Mills which is used as a rat run and carries too much traffic. The road is narrow with not enough space for cars and pedestrians and the upper level above the Dalton Grange is collapsing / Concern about the problems of traffic during match days as the reduced amount of parking spaces will force cars to park around Bradley Mills Road and Rawthorpe.

**Response:** Highway Services have assessed the application in respect of the anticipated parking demand and raise no objections subject to appropriate conditions and contributions.

Concern about the noise levels in the day and at night / Concern about late night taxi's and anti-social behaviour

**Response:** Environmental Services raise no objections subject to a noise investigation being undertaken to specify the measures to protect the occupants of nearby noise sensitive premises (existing and proposed) from noise from the proposed development.

Concern about additional rubbish around Bradley Mills Road by car users and pedestrian's.

**Response:** The operations on the site would be managed by a management company.

Concern about a greater risk of crime

**Response:** The West Yorkshire Police Liaison Officer raises no objections to the renewal of the outline application. Further detail would be sought as part of a future reserved matters application that includes sufficient and commensurate crime prevention measures that are intended to be incorporated in the design of the development.

Concern about noise level and pollution of dust dirt during construction.

**Response:** Noise and disruption during the construction phase is a normal part of the construction process and is not a reason to refuse the application. To mitigate the impacts of this, it is essential that the hours of operation and noise generated are considered. An advisory note on hours of operations together with conditions addressing site compound location is considered appropriate.

### **Conclusion:**

The proposal seeks to extend the time limit for implementing previously approved planning application 2008/92864 for a multi-use leisure and entertainment development with ancillary facilities, plus hotel, office and residential uses. Although there have been material changes to planning policy and guidance since outline permission was first approved, the principle of development remains acceptable.

### **9. RECOMMENDATION:**

**RECOMMENDATION:** Grant extension of time to outline application for erection of multi-use leisure and entertainment development with ancillary facilities plus hotel, office and residential uses subject to the delegation of authority to officers to:

1. Refer the application to the Health and Safety Executive for them to consider whether to request that the Secretary of State for Communities and Local Government calls in the application for determination; subject to the application not being called in;
2. Enter into a supplemental S106 agreement to secure Public Transport and Travel Plan Measures, Local Highway Works and Ecological / Biodiversity Works;
3. Impose all necessary and appropriate conditions which may include those set out below and
4. Subject to there being no substantive changes that would alter the recommendation to issue the decision notice

### **Suggested Conditions**

1. Conditions to secure the submission of all the Reserved Matters
2. Details of phasing of the development
3. Details of finished floor levels of each unit within a particular phase together with finished ground levels
4. Details of Affordable Housing
5. Condition to restrict the amount of retail and convenience goods
6. Condition to restrict the floor areas to that of the masterplan
7. A Crime Prevention report for each phase of development
8. Details of External Materials on any unit / building
9. Details of materials of external / ground surfaces
10. Scheme of Boundary Treatment of each phase with land/water bodies
11. Scheme of Foul and Surface Water Drainage

12. Condition preventing infiltration of surface water
13. Condition preventing Piling or other penetrative foundation designs
14. Development to be in accordance with the Flood Risk Assessment
15. A Phase II Report, and associated Remediation Strategy and Validation Report
16. Details of the location / design of any retaining structures
17. A scheme for the provision, maintenance and management of a riverside walk route
18. Details of a Construction Management Plan
19. Details of a Car Park Management Plan for each Phase
20. Details of a Travel Plan for each Phase
21. Completion of works at the junction of Cooper Bridge Road with the A644 Wakefield Road prior to the development being brought into use
22. Scheme to protect residents of Town Avenue from transportation noise
23. Scheme of any extract ventilation system or air conditioning system
24. Scheme to achieve stated internal sound levels in the residential units
25. A ventilation scheme
26. Scheme to control noise from the entertainment venues
27. Scheme of artificial lighting
28. Scheme for dust suppression
29. Scheme for eradication of Japanese Knotweed
30. Scheme for the mitigation, compensation and enhancement works in the Environmental Statement
31. Measures to protect and enhance biodiversity and measures to integrate the river corridor into the scheme.
32. Scheme for renewable energy use
33. Scheme to minimise energy use and waste generated and details of how waste generated is to be managed
34. Treatment of all surface water flows from parking areas and hardstandings.
35. A Landscape and Ecological Management Plan
36. A Construction Environmental Management Plan
37. A lighting design strategy for Biodiversity
38. Further supplementary Ecological Surveys

**Application No: 2016/92029**

**Type of application: 62m - FULL APPLICATION**

**Proposal: *Erection of extension to existing Kingsgate Shopping Centre to form new Leisure Development including new cinema and restaurants, and demolition of existing buildings on the site including 20-22 Cross Church Street (partly within a Conservation Area)***

**Location: *Proposed development site comprising, 20-22, Cross Church Street, Fleece Yard, Sun Inn Yard and White Lion Yard, Huddersfield, HD1 2TP***

**Grid Ref: 414662.0 416697.0**

**Ward: *Newsome Ward***

**Applicant: *Peter Everest, WD Kingsgate Ltd***

**Agent: *Hector Black, Covell Matthews Architects***

**Target Date: *19-Sep-2016***

**Recommendation: *For Members to note the content of the report and respond to the questions asked***

**Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.**

**<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>**

## LOCATION PLAN



Map not to scale – for identification purposes only

## 1. SUMMARY OF APPLICATION

<b>Application Details</b>		
Type of Development	Leisure and Retail Development	
Scale of Development	Proposed Floor Space: A3 (2,911sq m) D2 (2,303sq m) and A1 retail (1,949sq m)	
No. Jobs Created or Retained	259 New full time jobs	
<b>Policy</b>		
UDP allocation	The site falls within the Town Centre Insert Map and is otherwise unallocated.	
Independent Viability Required	No	
<b>Representation/Consultation</b>		
Individual Support (No.)	0	
Individual Objection (No.)	0	
Petition	0	
Ward Member Interest	No	
Statutory Consultee Objections	Yes	
<b>Contributions</b>		
• Public Realm Improvement Works	£185,000 contribution towards highway improvements on Cross Church Street	
• <b>Other Issues</b>		
• Any Council Interest	Yes	
• Planning Pre-Application Advice	Yes	
Pre-App Consultation Undertaken?	Yes	
<b>Comment on Application</b>	Yes	
	Yes	
	Yes	
	<b>POSITION STATEMENT</b> – For Members to note the content of the report and respond to the questions asked	

**RECOMMENDATION:** For Members to note the content of the report and presentation and respond to the questions at the end of each section

## 2. INFORMATION

The application is referred to Strategic Committee as it proposes major development over 1250 square metres of retail floorspace.

### **3. SITE DESCRIPTION/PROPOSAL**

#### **Site Description:**

The site comprises land and buildings adjacent to the existing Kingsgate Shopping Centre within Huddersfield Town Centre. The site includes No's 20-26 Cross Church Street together with Fleece Yard, Sun Inn Yard and White Lion Yard. The site is located within the Huddersfield Town Centre insert map and located within the Huddersfield Town Centre Conservation Area.

#### **Proposal:**

The application seeks planning permission and listed building consent for the erection of an extension to the Kingsgate Centre to form a new leisure destination. This would include a cinema complex and restaurant space, and for an extension to the existing Next retail unit to provide an additional 1,949 sq m of retail floor space.

The extension would be large in scale, and have a functional box like appearance, which would extend from the rear of properties off Cross Church Street, across the existing yard areas to Venn Street, and including land to the west of Oldgate House. Six restaurant units are proposed at mall level with a total floor space of 2,911 sqm. The cinema entrance would be located at first floor with direct access from the mall via an escalator. The cinema multi-screen complex is located at second floor and comprises an area of 2,303 sqm. The proposed materials include reconstituted stone, metal cladding systems, render, curtain walling and metal feature beam. It is proposed the highest level of wall cladding forming the envelope of the cinema level is to have a reflective, low maintenance, gloss finish.

The proposal would involve the partial demolition of two listed buildings: No's 20-22 Cross Church Street. The extent of demolition is being revised but at present the scheme involves removal of the internal a ground floor wall which divides the two properties to in order to create an enlarged a pedestrian entrance to the cinema. The rear ground floor wall would also be removed to allow a new glazed link to connect to the rear of the listed buildings to the new cinema/restaurant element of the development. A canopy is proposed extending out into the pavement above the ground floor of both 20 and 22 Cross Church street with a glazed way marker. The link to the interior of the Kingsgate Mall is via the existing location of the mid escape corridor which will be glazed top lit.

The existing service access point will remain off Venn Street, with an undercroft parking area of 8 spaces and the provision of a new ramp. The intention is to utilise the existing multi-storey parking to serve the proposed leisure development.



#### **4. BACKGROUND AND HISTORY**

88/06698 – Outline application for retail development, refurbishment of Queen Street Mission and King St yards with ancillary parking & highway works – conditional outline permission

89/06911 – Outline for retail & ancillary development including refurbishment of the yards properties, environmental improvements and associated change of use – Conditional Outline permission

91/02220 – Reserved Matters for new shopping centre and associated development including car parking – Approval of reserved matters

96/92049 – Erection of covered shopping centre with car parking including use classes A1, A2, A3 (shops, financial & professional services, food & drink) and ancillary uses (amended proposals) – conditional full permission

96/93118 – Variation of condition 1a relating to the time limit for submission of reserved matters being extended to eight years on previous approval 89/06911 for outline application for retail and ancillary development including refurbishment of the yards – Conditional Full Permission

2001/90493 – Erection of centre-wide shop signage – Advertisement consent granted

2007/92060 – Outline application for extension to existing shopping centre to provide additional floor space (Class A1 and A3), basement car parking, servicing and associated development (partly within a conservation area) – Mind to refuse. Appeal upheld

2008/90016 – Outline application for extension to existing shopping centre to provide additional floor space (class A1 and A3), basement car parking, servicing and associated development (party within a conservation area) – Refused.

2011/91613 – Extension to time limit for implementing existing permission number 2007/60/92060/W1 for outline application for extension to existing shopping centre to provide additional floor space (class A1 and A3), basement car parking, servicing and associated development – Granted

#### **5. PLANNING POLICY**

The site is unallocated on the Kirklees Unitary Development Plan proposals map.

##### **Kirklees Unitary Development Plan**

D2 – Unallocated land  
BE1 – Design principles  
BE2 – Quality of design

BE12 – Space about buildings  
S1 – Town Centres/Local Centres shopping  
TC1 –Huddersfield Town Centre Policies  
T10 – Highway Safety  
G6 – Land contamination

### **National Planning Policy Framework**

Chapter 1 – Building a strong, competitive economy  
Chapter 2 – Ensuring the vitality of town centres  
Chapter 7 - Requiring good design  
Chapter 8 - Promoting healthy communities  
Chapter 10 - Meeting the challenge of climate change, flooding  
Chapter 11 – Conserving and Enhancing the Natural Environment  
Chapter 12 - Conserving and enhancing the historic environment

## **6. CONSULTATIONS**

The following is a brief summary of the consultation responses received. Where necessary, these consultations are reported in more detail in the assessment below:

**K.C Highway Services** – No objections

**K.C Flood Management** – No objections

**The Environment Agency** – No objection

**West Yorkshire Police Liaison Officer** – No objections

**The Coal Authority** – No objections

**K.C Environmental Services** – No objections

**K.C Ecologist** – Recommend a bird breeding survey is undertaken

**K.C Conservation and Design** – Waiting comments to revised scheme

**Historic England** – Oppose the application in its current form due to the impact on 20-22 Cross Church Street from the extent of demolition proposed and the lack of justification for this. They also oppose the canopy and signage scheme projecting out on to Cross Church Street. Revised Plans have been provided by the developer to overcome historic England's concerns, the outcome of these discussions will be brought to Committee in the Update report.

**The Victorian Society** – Objected to the original submission due to the size of the cinema building and the impact of the front canopy and the alterations to the frontage of the two listed buildings which form the entrance into the development. The VS have been reconsulted on the revised scheme and their comments will be brought to a subsequent Strategic Planning Committee.

**Council for British Archaeology** – Objected to the original submission due to the impact on the listed buildings, the conservation area and the setting of St Peters Church. The CBA have been reconsulted on the revised scheme and their comments will be brought to a subsequent Strategic Planning Committee.

**Yorkshire Water** – Object - The building would be constructed over the public sewerage system which could jeopardise Yorkshire Water’s ability to maintain it.

## **7. REPRESENTATIONS**

The application has been advertised by neighbour letter, newspaper advertisement and site notice with the amended plans publicity to expire 4<sup>th</sup> November.

At the time of writing no representations have been received.

## **8. ASSESSMENT**

### **General principle:**

The statutory development plan is the starting point in the consideration of planning applications for the development or use of land unless material considerations indicate otherwise (Section 38(6) Planning and Compulsory Purchase Act 2004). The site is without notation on the UDP Proposals Map and Policy D2 (development of land without notation) of the UDP states “planning permission for the development ... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]”. All these considerations are addressed later in this assessment.

The NPPF sets out a presumption in favour of sustainable development. For decision taking this means ‘approving development proposals that accord with the development plan without delay’. Paragraph 23 of the NPPF states planning policies should recognise town centres as the heart of their communities and pursue policies to support their viability and vitality; promote competitive town centres that provide customer choice and retain and enhance existing markets and, where appropriate re-introduce or create new ones, ensuring that markets remain attractive and competitive.

Policy TC1 of the UDP states the role of Huddersfield Town centre will be enhanced by:

- Improving the range, quality and quantity of shopping provision
- Increasing the amount of housing by conversion of properties and new building
- Encouraging additional employment opportunities
- Providing leisure and recreation facilities;

- Improving the quality of the built environment and open spaces
- Supporting the expansion of the University and Technical College
- Managing private and public transport to improve access and safety
- Extending the pedestrianisation of shopping streets and reducing town centre traffic, and
- Enabling development opportunities.

Considered against these objectives, the proposed extension to the Kingsgate centre would provide new leisure facilities, assist in improving the quantity of shopping provision, and would provide significant employment opportunities. The proposed economic benefits of the scheme are detailed in the supporting Economic Statement. The Kingsgate shopping centre makes up 33% of Huddersfield Town Centre's total retail footprint, and there is an identified need to secure the future vitality and viability of Kingsgate. The proposed retail extension to the 'Next' unit would continue to support the viability and vitality of the retail sector within the town centre and fully accords with the principals of chapter 1 of the NPPF. It is proposed that in addition to the construction jobs, 259 full time jobs would be created within the new development.

The proposed cinema and restaurant uses would enhance the existing night-time economy of the town centre by providing a different offer to that provided by the high concentration of public houses and hot food takeaways within the vicinity of the site. There would be significant public benefits to diluting the 'alcohol economy' in this part of the town centre and the proposal would strengthen the vitality and viability of the overall town centre.

The principle of a mixed use leisure and retail development within this highly sustainable central town centre location is welcomed. As such there are no objections to the principle of development.

**Are there any comments which Members wish to make in relation to the principle of the proposed development at this stage?**

#### **Urban Design and Heritage Matters:**

The footprint of the proposed leisure complex is of a significant scale which would extend from the rear of properties off Cross Church Street, across the existing yard areas to Venn Street. The development footprint also extends into land to the west of Oldgate House to provide an extension to the existing Next unit. The site is partially located in the Huddersfield Town Centre Conservation Area, and the proposed development would affect a number of heritage assets including 20-22 Cross Church Street, all separately Grade II listed and the setting of several other listed buildings including St Peter's Church, Grade II\* listed.

The special interest of the conservation area is characterised by the town's nineteenth century buildings, a variety of streetscapes, alleyways and yards focused along the ancient east - west axis of Kirkgate and Westgate. During the late eighteenth and early nineteenth centuries, Huddersfield expanded rapidly with commercial and industrial development to the north and south of the market place. Cross Church Street is one of a number of north- south routes leading to Kirkgate and provides significant views of both St Peter's Church, Grade II\* listed and the former St Paul's Church. The historic street pattern, narrow plots and dense urban grain of Cross Church Street reflects the town's growth during this period and is characterised by the continuous streetscape.

The distinctive character of the street is strengthened by small scale commercial properties including 20 - 22 Cross Church Street (Grade II listed) constructed from Pennine Gritstone with a consistent pattern of fenestration and pitched roofs clad with stone slates. These buildings make a positive contribution to the conservation area and the setting of St Peter's Church.

Levels vary across the site, generally sloping downwards from Cross Church Street to Venn Street. Level pedestrian access would be achieved from Cross Church Street leading through to the proposed restaurant units and onto the existing shopping mall. The cinema complex is proposed on the upper floor with access provided via escalator. The roof line of the building would sit above that of neighbouring properties along Cross Church Street and the former Palace Theatre, and the building would have a functional box like appearance to be constructed of a mix of reconstituted stone, aluminium cladding and render.

Paragraph 128 of the NPPF stipulates that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. Paragraph 131 states local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation, the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality, and the desirability of new development making a positive contribution to local character and distinctiveness.

Historic England supports the proposed development in principle, but raised a number of concerns regarding the scale and massing of the building and the impact on the conservation area, the impact on listed buildings 20-22 Cross Church Street, and the impact on the setting of several other listed buildings, including St Peter's church, grade II\* listed.

Officers have undertaken negotiations with the applicant to secure a reduction in the height of the building. The revised elevations show a significant reduction in height of 4.1 metres, and the benefits of this in respect of visual amenity and the impact on heritage assets is clearly shown in the Visual Impact Assessment provided.

The massing and height of the proposed building is still significant, and it is appropriate to give consideration as to how this compares to the previously approved scheme for an extension to the Kingsgate Centre in 2007. This was an outline application which sought to approve details of scale, approved at appeal in 2008 with a later extension of time granted in 2011. It is therefore a material consideration to the assessment of this application. The proposed height of the scheme is comparable to that previously proposed, although the footprint of the extension is significantly reduced in comparison to the 2007 scheme which previously incorporated both the former Palace Theatre and Oldgate House.

Revisions have also been secured to reduce the amount of demolition proposed to the listed buildings, and the treatment of the entrance off Cross Church Street. The relationship between the proposed mall and 20-22 Cross Church Street has been redesigned so that 22-22 will be clearly read as distinct buildings in their own right, and not confused as part of the new build proposal. The latest revisions now propose to retain all the first floor and the retention of the staircase in the upper floor. A comprehensive set of enhancements are proposed to include the removal of modern features, and the entrance feature off Cross Church Street has been revised to allow less obstruction to views down the street towards St Peter's Church.

Historic England welcomes the revisions the applicant has made to the proposed scheme. They note the reduction in height of the proposed retail extension and consider it imperative that careful thought is given to the palette of materials to further mitigate the harm.

They also welcome the refurbishment of the front elevations of 20-22 Cross Church Street, and consider this has the potential to enhance the buildings and the wider streetscape along this important route through the conservation area. They are also pleased to see the comprehensive schedule of alterations to the listed buildings, and the retention of more of the rear elevation, and the reduction in size of the opening link to the cinema.

They have raised concerns however, regarding the removal of the first floor to create the mall entrance, and the bridge linking to one room on the second floor of 20 Cross Church Street. The latest revised plans seek to overcome this concern by retaining the ceiling above the ground floor and removing the glazed link at the upper floor. Historic England are being consulted on these latest revisions and committee will be updated on the progress of these discussions. There is concern there is limited information as to how the structures will be adequately supported. There is still also concern about the extension of the frontage into Cross Church Street with the formation of a canopy and totem signage, which could obscure views of the listed buildings,

including St Peters Church and the contribution 20-22 Cross Church Street make to the historic streetscape. The applicant is seeking to address these matters.

Subject to the above matters being addressed, it is likely that the proposal could amount to less than substantial harm. Paragraph 134 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. The economic benefits of the scheme have already been stated. The applicant has offered a contribution towards highway improvement works along Cross Church Street to the value of £185,000, the details of which are considered in the highway section below. It is considered the proposed significant benefits to the town centre economy of Huddersfield, and the impacts on the vitality and viability would be sufficient to outweigh the harm in this case. This is however, dependent on Historic England's assessment of any further revisions received.

**Are there any comments which Members wish to make in relation to the design/scale of the proposal and the impact on heritage assets at this stage?**

**Impact on highway safety:**

Policy T10 of the UDP sets out the matters against which new development will be assessed in terms of highway safety. The site is located within the town centre and in a highly sustainable location. The intention is to utilise the existing facilities of Kingsgate car park as whilst the cinema / restaurant facility would be open throughout the day, the majority of use by non-shoppers will be during the evening when the car park is empty. This arrangement is considered to be acceptable.

In respect of servicing, the service access point for the development will be from the existing service yard of Kingsgate, and there will be no change to the entry / exit point. It is however, proposed to construct a new entrance ramp parallel to the existing to free up the existing ramp as an access point for TK Maxx and the new development. It is proposed the undercroft to the development would be used for staff car parking, recycling facilities, utilises and refuse disposal. Highway Services raise no objections to the proposed development.

As noted above the developer proposes to make a contribution of £185,000 towards Public Realm Improvements works along the length of Cross Church Street. A scheme has been prepared by the Council which includes the provision of a build out to accommodate the proposed entrance, block paving with planters, and the provision of a contraflow cycle lane. This would involve the removal of some on street car parking that exists and would be subject to consideration under the Highway Acts if the Council decided to pursue this works to the Cross Church Street in order to improve the pedestrian and cyclist experience and to upgrade the streetscape to enhance the setting of

the listed buildings and make a positive contribution to improving this part of the conservation area. The proposed improvement works would be undertaken by the Council using the proposed developer's contribution to part fund the works. The proposed improvements are considered to represent a significant environmental improvement to this part of the town centre, and the monetary contribution would be secured through a Section 106 agreement.

**Are there any comments which Members wish to make in relation to highway safety matters or the proposed public realm improvement works at this stage?**

### **Amenity**

A core planning principle set out in the NPPF is that development should result in a good standard of amenity for all existing and future occupiers of land and buildings. UDP Policy D2 requires the effect on residential amenity to be considered and policy BE12 sets out the normally recommended minimum distances between habitable and non-habitable room windows of existing and proposed dwellings.

The nearest residential properties to the site include student accommodation in the former Palace Theatre and Oldgate House and residential uses within the buildings off Cross Church Street.

The relevant distances are:

- 13 metres from the extension to habitable room windows of residential units within Oldgate House
- 2 metres from the extension to habitable room windows of the proposed residential units within the former Palace Theatre
- 2 metres from the extension to the rear of properties off Cross Church Street.

The distance of 12 metres achieved to the student accommodation at Oldgate House is considered to be acceptable. It is considered there would not be a detrimental overshadowing impact, or a loss of amenity on the occupants of this building.

In respect of the impact on residential properties off Cross Church Street, the only residential properties are at No.24 Cross Church Street. Planning permission was granted in 2012 (Ref 2012/93380) for the conversion for the basement, and first and second floors to residential accommodation. Planning permission was also granted in 2013 (Ref 2013/91196) for conversion of the roof space. The accommodation approved within the roof space is lit by roof lights, and on the first and second floors the rear windows which front onto the application site serve non habitable rooms. Within the basement the kitchen / dining space fronts onto the site. There would inevitably be an impact on outlook and light to the rear of this property, however, on balance, this is not considered to be unduly detrimental when weighed up against the wider benefits of the scheme.



The proposed extension would however, have a closer relationship with the student accommodation in the former Palace Theatre, made more acute by a recent planning approval (2016/91196) for an extension to the south of the former theatre to create additional units. This would have the effect of the proposed extension being brought even closer to residential units, which are yet to be constructed. This raises concern about loss of light to habitable rooms in those units which will front south onto the development site. Whilst there would be no window openings in the retail extension leading to a loss of privacy there would be an impact on light. Clearly this would be harmful to future occupiers if the extension to the Palace Theatre student development is constructed and occupied. Members at the time of making a decision on the application will need to consider this harm in the round when deciding what weight to afford the relevant planning considerations when coming to a decision. This impact is likely to result in an on balanced recommendation by Officers at planning committee when this application is reported for determination.

In respect of noise, Environmental Services note the details submitted with the application gives a design target criteria for the proposed external plant rooms on the roof. Given the proximity of existing residential units, i.e. the student accommodation on Kirkgate (old palace theatre) and Old Gate (old Council building) Environmental Services are concerned that this design target is too high. Therefore, a site specific noise report will be needed to produce an appropriate noise criteria based on BS4142:2014. We recommend that a rating level of 0dB be achieved when calculated at the façade of the residential units. Environmental Services raise no objections subject to the inclusion of a condition requesting a report specifying the measures to be taken to protect the occupants of nearby noise sensitive premises from noise.

**Are there any comments which Members wish to make in relation to amenity issues at this stage?**

#### **Drainage Issues:**

The NPPF sets out the responsibilities for Local Planning Authorities in determining planning applications, including flood risk assessments taking climate change into account and the application of the sequential approach. The applicant has indicated an intention to discharge surface water to the public sewer. Given the location of the development, in the built up central area, there is little scope to provide space for attenuation to meet the 30% flow guideline. The area only shows combined sewers and no other systems, and is 100% positively drained. Kirklees Flood Management do not object to connections to the public sewer network. However, they advise that alternative measures such as green or blue roof systems incorporating attenuation of flows, and/or grey water recycling should be secured. The Local Authority are obligated to ensure SUDS systems are considered, and would be beneficial in combatting the impact of climate change on local drainage networks. This could be addressed through condition.

Yorkshire Water object as the proposed building would be sited over the public sewerage system and would jeopardise Yorkshire Water's ability to maintain the system. It is understood the developer is liaising with Yorkshire Water about possible diversions, however at this time the objection remains in place. This matter is yet to be addressed and remains outstanding at the time of writing.

**Are there any comments which Members wish to make in relation to drainage issues at this stage?**

**Ecological Issues:**

UDP Policy EP11 requests that applications for planning permission should incorporate landscaping which protects/enhances the ecology of the site. Due to the urban nature of the site and surrounding land the range of species that could potentially be affected by the proposals is low and typically there is limited opportunity for ecological enhancement. There are however, records of nesting swifts behind Oldgate House. The last record was in 2010 and at the time the colony was considered to be declining. This highlights the potential for ecological impacts and an offence under the Wildlife and Countryside Act 1981 (as amended), i.e. destruction of active bird nests, but also an opportunity for ecological enhancement. The Council's ecologist recommends that a bird breeding survey is undertaken to include the exterior of the buildings immediately adjacent to the proposed development and focusing on the potential for nesting swift. The report should assess the potential for the development to result in significant ecological impacts. The proposals should include, if possible, nesting provision designed specifically for swift. This information is awaited and this matter is yet to be addressed.

**Are there any comments which Members wish to make in relation to ecological issues at this stage?**

**Other Matters:**

Health and Safety

The site falls within the defined Development High Risk Area where there are coal mining features and hazards which need to be considered. The Coal Authority note the applicant has obtained appropriate and up-to-date coal mining information, this identifies the site has been subject to past coal mining activity, namely unrecorded probable historic shallow coal workings. The report concludes that further site investigations are to be undertaken to establish the exact situation regarding coal mining legacy. The Coal Authority has no objection subject to the imposition of appropriate conditions.

### Air Quality

Huddersfield Town Centre is currently an Area of Concern. It is the Policy of the Councils that in areas of concern, where developments will have a negative impact on air quality, that the impact should be assessed and mitigated against. Environmental Services therefore request that the developer submit a report that assesses the impact the development could have on Local Air Quality. In particular, the pollution damage costs attributed to the proposal are to be calculated to determine the amount of mitigation required to reduce this impact. The report should specify what measures the developer intends to take to reduce this impact. Subject to the inclusion of appropriate conditions, air quality matters are addressed.

### Contamination

Environmental Services have assessed the Phase 1 Report and raise no objections subject to the inclusion of a Phase II report and remediation strategy. Contamination land issues can be addressed through condition.

### Environmental Matters

The Environment Agency raise no objections as they controlled waters at this site are of low environmental sensitivity.

**Are there any comments which Members wish to make in relation to the above issues at this stage?**

## **10. Conclusion**

Members are asked to note the contents of this report. Members' comments on the following questions will be helpful in moving the application forward:

1. Do members have any comments on the principle of the development
2. Do members have any comments on the extent of works to the two listed buildings
3. Do Members have any comments about the scale and height of the cinema building and retail extension in relation to views from the conservation area and the setting of the listed buildings
4. Do members have any comments about the canopy and projecting signage scheme
5. Do members have any comments about the proposed highway works to Cross Church Street
6. Are there any other matters which Members wish to raise?

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