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**Service Director – Legal, Governance and
Commissioning**

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Wednesday 13 December 2017

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 21 December 2017**.

(A coach will depart the Town Hall, at 10.00am to undertake Site Visits. The consideration of Planning Applications will commence at 1.00 pm in the Council Chamber – Town Hall, Huddersfield).

This meeting will be webcast live and will be available to view via the Council's website.

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

Service Director – Legal, Governance and Commissioning

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
N Patrick
G Wilson
J Taylor

Green

K Allison
A Cooper

Independent

C Greaves
T Lyons

Labour

E Firth
C Scott
M Sokhal
S Ullah

Liberal Democrat

J Lawson
A Marchington
L Wilkinson

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

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

2: Minutes of the Previous Meeting

1 - 6

To approve the Minutes of the meeting of the Committee held on 30 November 2017.

3: Interests and Lobbying

7 - 8

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.

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.

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.

In accordance with Council Procedure Rule 10 (2), Members of the Public should provide at least 24 hours' notice of presenting a deputation.

6: Public Question Time

The Committee will hear any questions from the general public.

7: Site Visit - Application No: 2017/91676

Formation of new access from existing stone yard to adjacent storage area including excavation/engineering works Haggwood Quarry, Woodhead Road, Holmfirth.

(Estimated time of arrival at site – 10.15am)

Contact Officer: Glenn Wakefield

Wards

Affected: Holme Valley South

8: Site Visit - Application No: 2017/93205

Development of a 20MW synchronous gas powered standby generation plant Land off Bradford Road, Rear of Batley Frontier, Batley.

(estimated time of arrival at site – 11.00am)

Contact Officer: Glenn Wakefield

Wards

Affected: Batley East

Planning Applications

9 - 12

The Planning Sub 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 5.00pm (for phone requests) or 11:59pm (for email requests) by no later than Monday 18 December 2017.

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

An update, providing further information on applications on matters raised after the publication of the Agenda, will be added to the web Agenda.

9: Planning Application - Application No: 2017/91676 13 - 30

Formation of new access from existing stone yard to adjacent storage area including excavation/engineering works Haggwood Quarry, Woodhead Road, Holmfirth.

Contact Officer: Glenn Wakefield

Wards

Affected: Holme Valley South

10: Planning Application - Application No: 2017/93205 31 - 42

Development of a 20MW synchronous gas powered standby generation plant Land off Bradford Road, Rear of Batley Frontier, Batley.

Contact Officer: Glenn Wakefield

Wards

Affected: Batley East

11: Planning Application - Application No: 2017/92997 43 - 66

Erection of 70 (over 55) retirement apartments comprising of four blocks, provision of a community building, electricity substation and laying out of internal roads, parking areas and greenspace and associated infrastructure. Lidl, Station Road, Mirfield.

Contact Officer: Matthew Woodward

Wards

Affected: Mirfield

12: Exclusion of the Public

To resolve that under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act.

13: Planning Application - Application No: 2017/92997

Private Appendix in relation to application 2017/92997 included in agenda item 11.

This information is to be taken in private because it contains commercially sensitive information, including information about a third party.

The public interest in maintaining the exemption, which would protect the interests of the Council and the company involved, outweighs the public interest in disclosing the information and providing greater openness in the Council's decision making.

Planning Update

The update report on applications under consideration will be added to the web agenda prior to the meeting.

Contact Officer: Richard Dunne

KIRKLEES COUNCIL

STRATEGIC PLANNING COMMITTEE

Thursday 30th November 2017

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

All members of the committee were present.

2 Minutes of the Previous Meeting

The Minutes of the meeting held on 2 November 2017 were approved as a correct record.

3 Interests and Lobbying

Councillor A Pinnock declared he had been lobbied on application 2016/92298.

Councillor D Firth declared an 'other interest' in application 2017/91888 on the grounds that he was a member of Holme Valley Parish Council.

Councillors S Hall, Armer, D Firth, Kane, Pattison and A Pinnock declared they had been lobbied on application 2017/93326.

4 Admission of the Public

All items on the agenda were taken in public session.

5 Deputations/Petitions

No deputations or petitions were received.

6 Public Question Time

No questions were asked.

7 Site Visit - Application No: 2017/93326

Site visit undertaken.

8 Site Visit - Application No: 2017/91888

Site visit undertaken.

Strategic Planning Committee - 30 November 2017

- 9 Site Visit - Application No: 2017/92958**
Site visit undertaken.
- 10 Site Visit - Application No: 2016/92298**
Site visit undertaken.
- 11 Site Visit - Application No: 2017/92997**
Site visit undertaken.
- 12 Planning Application - Application No: 2017/91888**
The Sub Committee gave consideration to Planning Application 2017/91888
Change of use, alterations and extensions to former mill buildings to form mixed use development comprising of food manufacturing, cookery school, cafe, shop, restaurant, cooking demonstration/tasting areas and management offices/suite. Outdoor seating areas, service yard, parking and associated landscaping works Woodlands Mill, Luke Lane, Thongsbridge, Huddersfield.

Under the provisions of Council Procedure Rule 37, the Committee received representations from Nick Willock (agent) and Olivia Robinson (speaking on behalf of the applicant).

RESOLVED –

1) Delegate approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions contained within the considered report including:

1. The standard 3 year timescale to implement permission
2. The standard condition requiring development to accord with approved plans
3. Submission of details of materials for extensions and alterations.
4. Submission of details for surfacing and layout of car park areas including details of drainage.
5. Submission of details for the retaining works that are located adjacent to the public right of way.
6. Submission of a scheme for the protection of users of the public right of way.
7. Submission of specific details for cycle parking.
8. Submission of a construction management plan for accessing the site.
9. Submission of an Arboricultural method statement for works to the protected trees.
10. Submission of a landscape/Ecological design strategy to mitigate for the loss of protected trees and to enhance biodiversity at the site and for removal of Japanese knotweed.
11. Implementation of Landscape/Ecological design strategy and management of strategy.
12. Submission of details for a lighting plan at the site including the car park and servicing area.
13. Restriction on the hours of use of the site, northern building 0900 to 2000, southern building 1000 to 2230, deliveries 0730 to 2000 Monday to Friday, 0800 to 1800 Saturdays, no deliveries Sundays and Bank Holidays.
14. Submission of details of extract ventilation to be used at the site, for both phase 1 and 2.

Strategic Planning Committee - 30 November 2017

15. Submission of details of any other plant associated with the development for both phase 1 and 2.
16. Obscurely glaze windows on the eastern end elevation at both ground and first floor which look towards adjacent mill.
17. Provision of 2 electric charging points within the car park.
18. Limit retail floor space to 250 square metres.
19. No obstruction of within 3 metres sewer which crosses the site.
- 20-23. Contaminated Land Conditions (4 Conditions)

2) The inclusion of the following additional conditions:

1. The planting of replacement trees to mitigate tree loss.
2. A flood warning line.
3. Strengthening the construction/traffic management plan.

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 : (0 votes)

13 **Planning Application - Application No: 2017/93205**

The Sub Committee gave consideration to Planning Application 2017/93205 Development of a 20MW synchronous gas powered standby generation plant Land off Bradford Road, Rear of Batley Frontier, Batley.

RESOLVED –

That consideration of the application be deferred to :

1. Undertake further publicity / neighbour notification of residents on Bromley Street and Mill Lane located to the east of the site;
2. Allow officers to obtain further information on the likely periods of demand and the spread of hours of operation of the facility; and to gather emissions evidence from other operational sites.

A Recorded Vote was taken in accordance with Council Procedure Rule 42 (5) as follows:

For : Councillors Armer, D Firth, Kane, Pattison and A Pinnock (5 votes)

Against : (0 votes)

14 **Planning Application - Application No: 2017/92958**

The Sub Committee gave consideration to Planning Application 2017/92958 Alteration and extension to community and recreation centre and mosque with ancillary residential accommodation, car parking, landscaping and revised boundary treatment including demolition of existing outbuilding Baitul Tauhid Mosque, Spaines Road, Fartown, Huddersfield.

Strategic Planning Committee - 30 November 2017

Under the provisions of Council Procedure Rule 37, the Committee received representations from Munir Ahmed and Malcolm Sizer (both speaking on behalf of the applicant).

Under the provisions of Council Procedure Rule 36 (1) the Committee received a representation from Cllr Mohan Sokhal (Local ward member).

RESOLVED –

Delegate approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions contained within the considered report including:

1. The standard 3 year time limit to implement permission.
2. The standard condition requiring development to accord with approved plans.
3. Hours of use.
4. Material samples.
5. Crime mitigation measures.
6. Condition tying apartment to cleric.
7. Drainage- surface water scheme.
8. Ecology (Landscape plans + eco).
9. Ecology (Lighting plan).
10. Ecology (Survey work).
11. Environmental Health (Charging points to be provided in accordance with plans).
12. Coal (Site Investigation, remediation and validation).
13. Highways (Parking layout provided).
14. Highways (Cycle facilities).
15. Highways (Access kept clear of obstructions).

A Recorded Vote was taken in accordance with Council Procedure Rule 42 (5) as follows:

For : Councillors Armer, D Firth, Kane, Pattison and A Pinnock (5 votes)

Against : (0 votes)

15 Planning Application - Application No: 2017/92997

The Sub Committee gave consideration to Planning Application 2017/92997 Erection of 70 (over 55) retirement apartments comprising of four blocks, provision of a community building, electricity substation and laying out of internal roads, parking areas and greenspace and associated infrastructure. Lidl, Station Road, Mirfield.

Under the provisions of Council Procedure Rule 37, the Committee received a representation from Darren Smith (applicant).

RESOLVED –

That consideration of the application be deferred to allow the Committee an opportunity to look in more detail at the viability statement including an explanation of the abnormal development costs.

Strategic Planning Committee - 30 November 2017

A Recorded Vote was taken in accordance with Council Procedure Rule 42 (5) as follows:

For : Councillors Armer, D Firth, Kane, Pattison and A Pinnock (5 votes)

Against : (0 votes)

16 **Planning Application - Application No: 2017/93326**

The Sub Committee gave consideration to Planning Application 2017/93326 Outline application for erection of residential development (62 dwellings) and formation of new access to Woodhead Road Land off Woodhead Road, Brockholes, Holmfirth.

RESOLVED –

That the application be refused in line with the following reasons that were included in the considered report:

1. The proposed access arrangements for the development site would significantly harm highway safety and efficiency and as such the development is contrary to Policies T10 and BE1 of the Kirklees Unitary Development Plan, policy PLP21 of the Kirklees Publication Draft Local Plan and paragraph 32 of the National Planning Policy Framework. The harm to highway safety is not outweighed by any other material considerations, thus the proposal constitutes an unsustainable form of development.
2. In the absence of a completed Section 106 agreement the development fails to provide for Educational requirements, affordable housing provision, public open space and travel planning requirements.

A Recorded Vote was taken in accordance with Council Procedure Rule 42 (5) as follows:

For : Councillors Armer, D Firth, Kane, Pattison and A Pinnock (5 votes)

Against : (0 votes)

17 **Position Statement - Planning Application: 2016/92298**

The Committee received a position statement and presentation in respect of Planning Application 2016/92298 Outline application for redevelopment of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) Former North Bierley Waste Water Treatment Works, Oakenshaw.

RESOLVED –

That the position statement report and presentation be received and noted.

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KIRKLEES COUNCIL			
DECLARATION OF INTERESTS AND LOBBYING			
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.

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 is currently in the process of reviewing its development plan through the production of a Local Plan. The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined 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. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant 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 27th March 2012, the Planning Practice Guidance Suite (PPGS) launched 6th 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.

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Report of the Head of Strategic Investment

STRATEGIC PLANNING COMMITTEE

Date: 21-Dec-2017

Subject: Planning Application 2017/91676 Formation of new access from existing stone yard to adjacent storage area including excavation/engineering works Haggwood Quarry, Woodhead Road, Holmfirth, HD9 6PW

APPLICANT

Allan Pogson, Abacus
Stone Sales Ltd

DATE VALID

23-May-2017

TARGET DATE

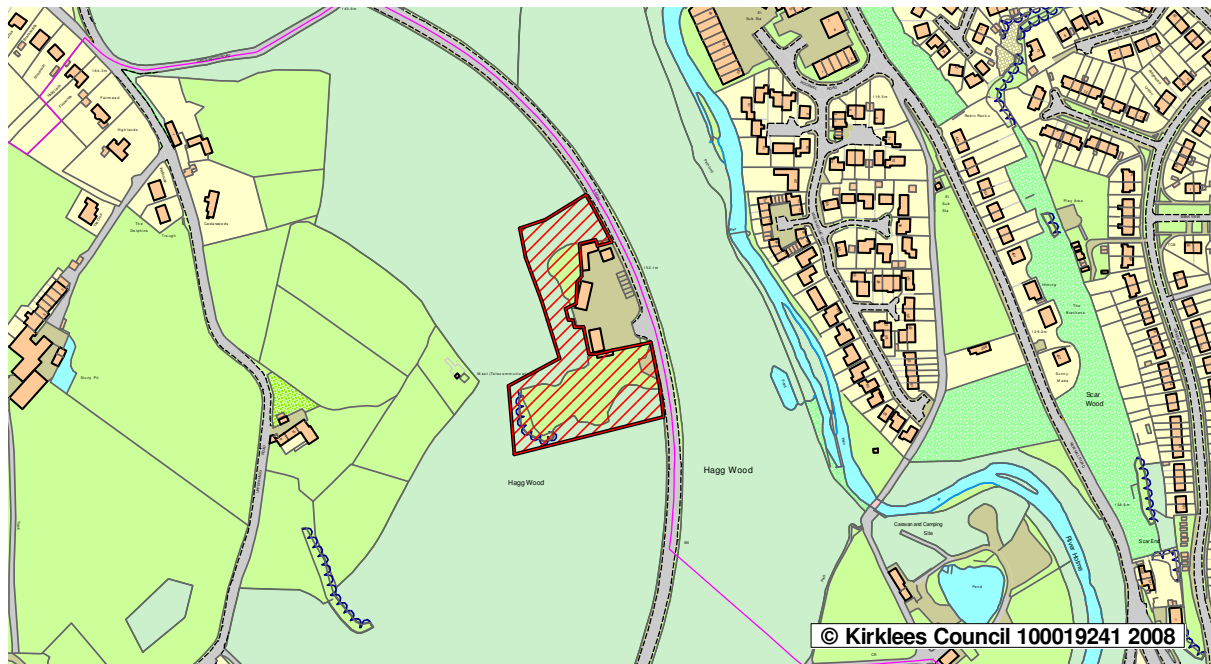
18-Jul-2017

EXTENSION EXPIRY DATE

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

Electoral Wards Affected: Holme Valley South.

Yes Ward members notified

RECOMMENDATION:

DELEGATE approval of this application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions including those contained within this report and to secure a Section 106 agreement from the applicant which limits the area that can be used to store and work stone within the site's northern quarry void.

In the circumstances where the Section 106 agreement has not been submitted within 3 months of the date of the Committee's resolution then the Head of Strategic Investment shall consider whether planning permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Strategic Investment is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers

1.0 INTRODUCTION:

This application is brought to the sub-committee for determination as the application site area exceeds 0.5 ha and the proposal relates to non – residential development.

2.0 SITE AND SURROUNDINGS:

The application site is located approximately 0.25km to the west of the centre of Brockholes, 1.7 kilometres south of Honley village and is situated on the edge of a large area of woodland known as Hagg Wood. The application site occupies an area of approximately 9920m² and forms part of what was principally an historic quarry void. The site comprises two main areas one to the south, which is currently used for the storage and dressing of stone and includes a number of buildings and associated plant. The other area which lies to the north is, at present unused although benefiting from planning permission for stone storage and dressing. These areas are linked by a strip of land which runs behind another stone processing operation which occupies the remainder of the quarry void. It is this strip of land which would be engineered/excavated to facilitate the proposed development. The immediate wider area surrounding the site has a rural wooded character with isolated residential properties to west and a concentration of residential properties to the east at Brockholes.

2.1 The site is located within a wider area designated as a site of scientific interest (SSI) in the Unitary Development Plan and is identified as a Local Wildlife Site in the Emerging local plan, is included within an area of ancient

woodland, is immediately adjacent to a scheduled ancient monument (1018555) and is located within the Green Belt.

3.0 PROPOSAL

- 3.1 The applicant has submitted a planning application which seeks permission to carry out engineering operations to form an access roadway from the operational southern quarry void to the northern void which has planning permission to be used for stone dressing and storage but has not been used. This would involve the excavation of land to the west of the current void down to a maximum depth of approximately 5m and at its widest approximately 10m beyond the toe of the historic quarry face. This would allow the construction of a roadway with an average carriageway width of approximately 4.5m. This would be sufficient to allow heavy vehicles to move between the two voids.

4.0 RELEVANT PLANNING HISTORY

75/6107 – Erection of site cabin for WYMCC (Approved 23 January 1976)

80/2401 – Storage compound for gas cylinders – (Approved 12.5.80)

96/90931 – Outline application for workshop and improved access (Refused 17 July 1996)

97/92231 – erection of PRU (gas control) building by Transco (Approved 8 January 1998)

2001/90843 - Use of former salt stocking yard for storage and dressing of building stone, erection of portal framed building, widening of access including resurfacing of entrance and erection of 2.4m-high palisade gate (within a site of special scientific interest and ancient monument). Approved 16 April 2003

2007/93104 - Use of existing stone yard for waste facility including site offices, hardstanding and landscaping works – Withdrawn

2017/90201- Variation of conditions 2 (Materials) 4 (Opening Hours) 8 (Retailing) 12 (Trees) 13 (Vehicular Access) and 17 (Storage Height) on previous application 2001/90843 for use of former salt stocking yard for storage and dressing of building stone, erection of portal framed building, widening of access including resurfacing of entrance and erection of 2.4m-high palisade gate. (Approved 26 June 2017 with regard to conditions 2, 4 and 14 only)

4.2 Enforcement History

- 4.3 The site was first investigated in 2001 following reports of activity on the former Council salt stocking yard. During these investigations it was found the owner was preparing the ground for storage and dressing of stone. This investigation led to the submission of the 2001 planning application ref: 2001/90843 and subsequent approval on the 16 April 2003.

- 4.4 Site was investigated again by officers in 2004 following further works carried out pursuant to the 2003 planning permission. The site had been further prepared for the storage and dressing of stone, including completion of the

access gates/walling and a degree of surfacing over the site. Officers investigating at the time were satisfied that the site was operating as a stone yard as described and approved.

- 4.5 The site operated thereafter without objection being received by the local planning authority until January 2016. The local authority received reports of the erection of a fence through the adjacent woodland, formation of “ramps” to gain access onto the upper level of the former quarry and encroachment into areas outside of the original planning permission. Further concern was raised regarding works within a site of an ancient scheduled monument within the woodland.
- 4.6 Initial visits to the site in January 2016 confirmed a number of trees had been removed in the adjacent woodland. These were protected trees and legal proceedings were pursued with respect to this matter.
- 4.7 These site visits also confirmed the site was largely operating within the terms of the 2003 planning permission. No evidence was obtained of any recent encroachments into any areas outside the 2003 permission and the “ramp” was not considered to amount to an operation requiring planning permission. It was noted there had been a small encroachment to the left of the access that was being used for storage. However, from aerial photographs held by the authority it was clear this area had been used for a significant number of years without major concern for the local authority. Historic England attending the visit did not raise any significant concern over works within the vicinity of the ancient scheduled monument. Notwithstanding this, the owner was advised of planning requirements should any works be carried out. The complainant was notified that no recent breaches of planning control had been identified in January 2016.
- 4.8 The local planning authority received further reports in February 2016 alleging an intensification of the site including lack of turning facilities for vehicles and removal of material to expand into the rear (northern area) of the site. Officers concluded that the area currently unused of the rear northern area of the stone yard benefitted from the 2003 planning permission and that based upon information obtained operations were not in breach of the 2003 planning permission.
- 4.9 Further reports in April 2016 from a second complainant alleged disturbance was being experienced through dust and noise pollution. It was also alleged operations were being carried out over the weekend. If substantiated this weekend activity would be in breach of condition 4 attached to the 2003 planning permission. However, it was noted that two adjoining stone yards operating independently both had conditions restricting weekend operations. Further evidence would have to be obtained to establish whether one or both stone yards were in breach of respective planning conditions.
- 4.10 Subsequent information obtained and received between the period of May and December 2016 demonstrated some weekend working was taking place on both stone yards. However, little evidence of substantial prolonged nuisance or harm caused could be verified. Under these circumstances and in accordance with National Planning Policy Guidance, the local planning authority would normally seek to resolve such matters through the submission of an application as opposed to the taking of formal action. An application revising the 2003 conditions was submitted and partially approved on the 26

June 2017. This allowed an extension of working hours to include Saturday morning operations between 8am and 1pm.

- 4.11 Following the approval of this application, a number of complaints were received alleging operations were commencing at 7am on Saturday morning. A Breach of Condition Notice was issued on the 9 August 2017 and required the operators to comply with the hours of operation condition by the 6 October 2017. As a result of the Notice being issued the operators have confirmed compliance with the planning condition relating to hours of work. However, in light of further allegations of Saturday afternoon operations the matter continues to be monitored.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Following discussions with the applicant and their agent and relevant consultees, site investigations were carried out to assess the extent of excavations necessary beyond the existing quarry face and their impact on the adjacent woodland. This resulted in amended plans being received which indicated a reduction in excavations along the western boundary of the site.

6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined 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. At this stage of the process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

6.2 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

EP4 – Noise generating development

B1 – Employment needs of the district

BE1 – Design principles

BE2 – Quality of design

NE3 – Development affecting Sites of Scientific Interest

NE5 – Development involving land identified as a wildlife corridor on the proposals map

NE9 – Retention of mature trees

BE9 – Development affecting archaeological sites

T10 – highway safety

6.3 National Planning Guidance:

Section 1 – Building a strong, competitive economy

Section 9 – Protecting Green Belt Land

Section 11 – Conserving and enhancing the natural environment

Section 12 – Conserving and enhancing the historic environment

6.4 Kirklees Publication Draft Local Plan: Submitted for examination April 2017

Whilst the majority of the site has not been allocated for any specific purpose in the emerging local plan, areas on the periphery of the site fall within a wider area identified as a local wildlife site (LWS57). Furthermore a small area on the western boundary of the site falls within an archaeological site, which is a scheduled ancient monument.

Policies:

PLP24 – Design

PLP52 – Protection and improvement of environmental quality

PLP3 – Location of new development

PLP21 – Highway Safety and Access

PLP35 – Historic environment

PLP30 – Biodiversity and geodiversity

PLP33 - Trees

7.0 **PUBLIC/LOCAL RESPONSE:**

7.1 This application was publicised by the erection of 4 site notices in the vicinity of the site and the mailing of 6 neighbourhood notification letters. This resulted in the receipt of 7 letters of objection which raised a number of concerns which can be summarised as follows:

- The development would represent inappropriate development within the Green Belt as the works do not preserve the openness of the Green belt and conflict with the purposes of including land in the Green Belt.
- The proposal would result in the loss of existing mature trees and wildlife habitat
- The proposal would cause damage to a scheduled ancient monument

- The transport off site of stone removed during the proposed works would have an adverse impact on the local highway network
- The proposal would lead to an intensification of the use of the site which would increase problems associated with dust, noise and highway safety
- Access to the current unused northern area of the site can be gained without creating this new access.
- No details have been provided regarding the construction specifications of the road or the proposed safety barriers

7.2 However, it should be noted that this application was made as a result of officers advising the applicant that these proposals could not be included within previous planning application 2017/90201 to vary/delete existing planning conditions. Consequently it is considered that it is appropriate to remind members that 82 representations were previously received with regard to the proposals to vary/delete existing planning conditions and the issues raised that are relevant to this application can be summarised as follows:

- The loss of trees associated with this development would have a detrimental impact on the area.
- The enjoyment of users of the wood would be adversely affected by this proposal
- The proposal would have a detrimental impact on local ecology
- Existing planning conditions have not been satisfactorily enforced
- The proposal would see an encroachment of current activities into ancient woodland and a site of scientific interest and should not therefore be allowed
- The proposal would have a detrimental impact on a scheduled ancient monument.
- Hagg Wood is a public amenity and the rights of way within the wood would be adversely affected
- Protected trees have already been illegally felled by the applicant.
- Local beavers and cubs groups use the wood for recreational activities which would be adversely affected by this proposal
- Allowing activities above the level of the existing quarry would result in problems associated with noise and dust travelling further
- The proposal is contrary to local planning policy as the site is located within the Green Belt, protected woodland and close to archaeological remains.

- The development would involve the loss of part of ancient woodland which would be contrary to national planning policy guidance.
- The current use of the site is contrary to Green Belt policy
- Activities at the site result in the generation of dust which and the problems associated with dust in the vicinity will be exacerbated by this proposal.
- Allowing this proposal would result in increased noise nuisance

7.3 Home Valley Parish Council was consulted on this proposal and responded as follows:

“Cllr J G Cropper declared a disclosable pecuniary interest and left the meeting during this item.

Object to the application on the grounds that this is a site of ancient woodland and archaeological nature. As this is a site of special interest, Historic England advice on safeguarding the site and the adjacent Scheduled Monument must be borne in mind.”

7.4 Whilst not commenting on this application directly, local members did raise concerns about the previous Section 73 application (2017/90201) to vary conditions on the original planning permission. That application did originally include the works proposed in this application before they were excluded by officers and the comments made by members were made in that context. It is therefore considered appropriate to provide a copy of those comments for members to note:

Cllr Nigel Patrick (Holme Valley South ward member) indicated in an e-mail dated 1 February 2017 that he considered that “ given ongoing problems on this site this application should go to planning committee together with a site visit.” Cllr Patrick in a further e-mail communication provided the following reasons to support his request:

- *Impact on Ancient Monument*
- *Impact on Protected Trees*
- *Impact on Ancient/ Semi Natural Woodland*
- *Impact on amenity of neighbouring properties*
- *Impact on Protected Species*
- *Road Safety*
- *Ongoing enforcement issues at site*

Cllr C Greaves (Home Valley North member which is the adjacent ward) also requested that this application be brought to committee for determination in an e-mail dated 14 February 2017 and indicated the following:

“...The reasons for referral are that development has occurred outside of existing permissions and this application has been submitted as a response to enforcement action - and that in my view the decision to ease planning restrictions should be determined by committee.

I have particular concerns around any easing of the restriction against retail activity, early operating times on a Saturday, any works at all on a Sunday, stacking of material (3m still seems appropriate) and any removal of trees or further incursion into the rock face/woodland - all of which are against current permissions and which appear to be taking place."

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

K C Highways DM – No objections

Historic England – No objection. However, Historic England has requested that an informative be added advising the applicant that a Scheduled Ancient Monument consent would be required prior to development commencing and that Historic England should be contacted with regard to this matter.

8.2 Non-statutory:

K C Environmental Health – No objection subject to planning to:

- Restrict hours of operation to 0700 and 1800 Monday to Friday and 0800 to 1300 Saturdays and no activities to take place on Sundays or Bank Holidays
- The submission and approval of a dust suppression scheme prior to development commencing

K C Ecology Unit – No objection subject to planning conditions to require:

- The submission and approval of a protocol for dealing with any invasive weeds found.
- Compensatory woodland planting as indicated in the arboricultural impact assessment.
- That tree and vegetation removal is carried out outside the bird nesting season.
- The submission and approval of an artificial lighting scheme.
- Re-survey of a disused badger set prior to development commencing.
- The submission and approval of ecological enhancement works.

K C Trees Officer – No objections subject to the area used for stone storage and dressing being restricted to that shown in the amended arboricultural method statement and the inclusion of planning conditions which require:

- Works to the affected trees being carried out in accordance with the supporting arboricultural method statement
- Details of any additional tree works which have not been previously identified prior to the works being carried out

- The production of evidence to show that arboricultural works have been carried out in accordance with the approved scheme
- Compensatory tree planting works is carried out within 12 months development commencing

Forestry Commission – Standard advice provided which stresses that this proposal must be considered in accordance with para. 118 of the NPPF. Bullet point 5 of para. 118 states:

“...planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss;...”

West Yorks Archaeology – No response

9.0 MAIN ISSUES

- Principle of development
- Local amenity issues
- Ecological issues
- Heritage issues
- Highway issues
- Representations

10.0 APPRAISAL

10.1 Principle of development

10.2 Section 1 of the National Planning Policy Framework makes it clear that the Government is committed to securing economic growth through the planning process and to help achieve this paragraph 20 of the NPPF states:

“.....local planning authorities should plan pro-actively to meet the development needs of business and support an economy fit for the 21st century.”

This site is an established business which provides employment and contributes to the local economy. It is considered that this proposal would maximise the potential of this site and therefore accords with the aims of the NPPF with regard to supporting sustainable economic growth.

10.3 The application site falls within a wider area identified as Green Belt in the adopted Unitary Development Plan. Paragraph 87 of the NPPF confirms that inappropriate development within Green Belt is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 goes on to say that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very Special Circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm is clearly outweighed by other considerations. It is considered that the principle of using this site in connection with stone storage and working

within the Green Belt was established at the time the original planning permission was granted in 2003.

- 10.4 The construction of the proposed access roadway is considered to constitute engineering operations which Paragraph 90 of the NPPF states are not inappropriate development within the Green Belt, provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within the Green Belt. It is therefore considered that key issues to consider in the assessment of this application are whether this proposal is appropriate development and if not whether there are any very special circumstances which clearly outweigh the harm that would be caused to the Green Belt by reason of inappropriateness or by any other harm.
- 10.5 The NPPF indicates that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Paragraph 80 of the NPPF indicates that Green Belts serve 5 purposes:
1. To check the unrestricted sprawl of large built up areas;
 2. To prevent neighbouring towns from merging into one another;
 3. To assist in safeguarding the countryside from encroachment;
 4. To preserve the setting and special character of historic towns; and
 5. To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- 10.6 The proposed access roadway falls within the footprint of the previously granted planning permission to change the use of the site to allow stone storage and working albeit within an area which was specifically precluded from such activities by planning condition. The area of development associated with the engineering operations measures approximately 320m² and represents a strip of land to the rear of and adjacent to existing industrial buildings. The roadway would be accessed from the existing quarry void and would therefore be below the level of the surrounding woodland to the west of the site. As a consequence, the physical works involved and its subsequent use would be screened to a significant degree.
- 10.7 The working and storage of stone within the application site already has the benefit of planning permission and it is therefore considered that this development would not represent an intensification of that use but would simply act to facilitate the permitted use.
- 10.8 The proposed roadway is associated with an existing brownfield site and there would be a relatively minor impact on visual amenity and the character of the wider landscape. Officers therefore consider that this proposal would preserve the openness of this part of the Green belt and would not conflict with the purposes of including land within the Green Belt and comply with the provisions of paragraph 89 of the NPPF. The development is therefore considered to represent appropriate development within the Green Belt and would therefore accord with policy guidance contained within the Section 9 of the NPPF.
- 10.9 Due to the stage the emerging Local Plan has reached with regard to the examination process, it must now be given considerable weight in the consideration of planning applications. The implications of this proposal on the emerging plan must therefore be considered. The emerging local plan

identifies peripheral areas on the edge of the site as falling within a wider area designated as a Local Wildlife Site (previously an SSI in the UDP) and within part of an area containing a registered ancient monument. Officers consider that due to the limited nature of development involved in this instance, the aims of the local plan would not be prejudiced by this proposal.

10.10 Officers therefore consider that this proposal is acceptable in principle subject to there being no conflict with other local and national planning policy guidance.

10.11 Local Amenity Issues

10.12 The nearest residential properties to the proposed roadway are located approximately 160m to the east off River Holme View and 210m to the west off Upper Hagg Road. The residential properties to the east are at a lower level (approx. 40m) and are screened by dense woodland. The residential properties to the west are at a higher level (approx. 10m) and again screened by dense woodland. As a consequence direct views of the site cannot be gained from these properties.

10.13 The nearest public right of way (PROW) is located approximately 350m to the south of the site. Users of this PROW would not be able to gain direct views of the proposed roadway and it is therefore considered that the enjoyment of pedestrians using this route would not be adversely affected.

10.14 Noise would be generated by vehicle movements and as a result of stone being loaded and unloaded onto and from vehicles. However, this type of activity already takes place on the operational areas of the site. It is therefore considered that noise levels would not exceed those already associated with existing permitted operations and as a consequence this proposal would not result in a significant additional adverse impact being experienced by the nearest sensitive receptors with regard to potential noise nuisance.

10.15 The area which would be excavated to create the roadway is partially screened from Woodhead road by existing buildings and vegetation and would be set below the level of the woodland to the west of the site. Consequently only limited views of the roadway would be obtained. Vehicles using the roadway could be viewed at certain points along its route but such views would be fleeting and, bearing in mind current activity on adjacent land, would not appear as unusual in this particular setting. Officers therefore consider that this development would have only a limited impact on the visual amenity of this area and would not represent a significant degradation of the visual quality in this part of the district.

10.16 Due to the nature of operations on adjacent land this proposal could result in additional dust generation in dry conditions. However, officers consider that measures can be implemented to mitigate any associated impact.

10.17 It is therefore considered that this proposal would accord with UDP policies BE1, BE2, EP4, KPDL policies PLP24, PLP52 and section 11 of the NPPF with regard to its impact on local amenity.

10.18 Ecological Issues

10.19 The site is located within a wider area designated as a Local Wildlife Site and was formerly allocated as a Site of Scientific Interest (SSI) in the UDP. It is therefore essential to ensure that any development does not detrimentally impact on local ecology and biodiversity associated with this area.

10.20 The applicant has provided an ecological assessment which has considered the potential ecological impacts associated with this proposal. The assessment established baseline ecological conditions and considers the likely effects of this proposal, suggested mitigation measures and ecological enhancements and its conclusions of this assessment is summarised as follows:

Ecological Receptor	Importance	Mitigation, Compensation and Enhancements	Anticipated Residual Impact
Bats	County	None of the trees to be removed have potential for roosting bats. The erection of five woodcrete bat boxes will therefore increase the potential bat roosting resource. 350 native whips to be planted around the margins of the quarry will provide increased bat foraging habitat; the access track itself will have a vertical upper edge, and will remain unlit, creating new 'edge habitat' of value to foraging bats.	Positive (Minor)
Nesting Birds	Local	If any tree or shrub removal needs to take place within the main bird breeding season (which for most species extends between March and August inclusive) an inspection shall take place first, by a suitable qualified ecologist, and any nests (if present) shall be protected, along with a suitable buffer zone, until the nesting attempt is complete. 350 native whips to be planted around the margins of the quarry will provide new nesting opportunities, as well as berries for a wide range of bird species (and other wildlife). The provision of five nest boxes will provide enhanced nesting opportunities for great tit and pied flycatcher.	Positive (Minor)
Invertebrates	Local	350 native whips to be planted around the margins of the quarry will provide new habitat and sources of nectar for a range of invertebrates, whilst the provision of at least five large log piles from felled, crown lifted or pruned trees will create suitable habitat for a range of dead wood invertebrates.	No net change
Badger	Local	Measures not disclosed here to protect location of badger activity	No net change

10.21 Whilst it is accepted that this proposal will have some effects on the potential habitat opportunities provided by this site, it is considered that these effects would be limited and measures can be secured which would potentially provide biodiversity enhancements.

10.22 Although much of the site is part of an operational stone yard, it falls within an area designated as Ancient Woodland. Paragraph 118 of the NPPF states:

“When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

... planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss...”

10.23 In this case, whilst it is accepted that some tree loss will occur as part of the proposal, it is considered that this would be offset by the protection of trees which could otherwise be removed under the terms of the original planning permission. The original grant of planning permission indicated the removal of the majority of trees within the northern quarry void in order to facilitate storage accommodation. This application provides an opportunity to restrict the area to be used in connection with stone storage and working in the northern quarry void and therefore retain a number of existing mature trees. Furthermore the proposal includes a significant amount of compensatory planting (350 native whips) around the edge of the site.

10.24 Should planning permission be approved it is proposed to require the applicant to provide a legal agreement which would require the retention of the existing mature trees located in the northern quarry void.

10.25 It is therefore considered that, in this instance, the benefits of allowing the removal of trees to facilitate this development outweigh their loss and subject to the applicant providing the agreement outlined previously; this proposal would accord with UDP policy NE3, NE5, NE9 KPDL policy PLP 30 and Section 11 of the NPPF.

10.26 Heritage issues

10.27 The site forms part of a scheduled ancient monument which seeks to protect known archaeological remains within Hagg Wood. These remains comprise several stone cairns of Neolithic origin which are located in various positions within the wood.

10.28 As this application has the potential to affect this monument, Historic England was consulted as a Statutory Consultee. Following negotiations with the applicant involving a site visit and amendments to the original proposal, Historic England has confirmed that it does not wish to object to the proposal and it is therefore considered that the development would accord with UDP policy BE9, KPDL policy PLP 35 and Section 12 of the NPPF.

10.29 Highways issues

10.30 The application site is an operational site and is served via an existing access from Woodhead road. This was identified as the access point on the original planning permission to use the site as a stone yard. This proposal would not change these access arrangements.

10.31 It is estimated that the proposed development would involve the removal of approximately 1500 tonnes of rock which would need to be transported from the site. It is therefore likely that this would require in the region of 75 HGV loads. These vehicle movements would be spread over the period of the works and would be for a temporary period only. The applicant has indicated that once operational, this proposal would not result in a significant increase in commercial vehicles visiting the site.

10.32 As it is considered that this proposal would not lead to an intensification of this access, this proposal would not have a significant detrimental impact on highway safety in the vicinity of the site. This proposal would therefore accord with UDP policies T10 and KPDLP policy PLP 21 with regard to the potential impact on the local highway network.

10.33 Representations

10.34 As previously indicated 7 letters of objection have been received in connection with this application in addition to the 82 representations received with regard to the previous proposal, the relevant issues raised and associated responses are summarised as follows:

The development would represent inappropriate development within the Green Belt as the works do not preserve the openness of the Green belt and conflict with the purposes of including land in the Green Belt.

Response: This matter has been considered in paragraphs 10.3 to 10.8

The proposal would result in the loss of existing mature trees and wildlife habitat

Response: This matter has been considered in paragraphs 10.19 to 10.21

The proposal would cause damage to a scheduled ancient monument

Response: to follow

The transport off site of stone removed during the proposed works would have an adverse impact on the local highway network

Response: This matter has been considered in paragraph 10.29

The proposal would lead to an intensification of the use of the site which would increase problems associated with dust, noise and highway safety

Response: This matter has been considered in paragraph 10.7

Access to the current unused northern area of the site can be gained without creating this new access.

Response: This may be the case. However, the applicant has submitted an application to provide improved arrangements. This application must be considered in this context and cannot simply be refused because access can already be gained. The proposal has been assessed on that basis and it is considered that the proposal should be granted planning permission.

No details of have been provided regarding the construction specifications of the road or the proposed safety barriers.

Response: It is considered that this information can be satisfactorily secured through the imposition of planning conditions.

The loss of trees associated with this development would have a detrimental impact on the area.

Response: This matter has been considered in paragraphs 10.22 to 10.23

The enjoyment of users of Hagg Wood would be adversely affected by this proposal.

Response: Hagg Wood is privately owned land and the only public access is via PROW Hol/32/40 which is over 300m from this proposal. As previously indicated it is considered that the enjoyment of pedestrians using this route would not be adversely affected.

The proposal would have a detrimental impact on local ecology.

Response: This matter has been considered in paragraphs 10.19 to 10.21

Existing planning conditions have not been satisfactorily enforced

Response: This matter has been summarised in Paragraphs 4.3 to 4.11. Whilst it is accepted that enforcement action has been required to address a breach of planning control at this site, this is not a material planning consideration with regard to this application.

The proposal would see an encroachment of current activities into ancient woodland and a site of scientific interest and should not therefore be allowed.

Response: This matter has been considered in Paragraphs 10.19 to 10.23

The proposal would have a detrimental impact on a scheduled ancient monument.

Response: This matter has been considered in Paragraphs 10.27 and 10.28

Hagg Wood is a public amenity and the rights of way within the wood would be adversely affected.

Response: Other than PROW Hol/32/40 which runs along the southern boundary of Hagg Wood, there are no other PROWs in the vicinity of the site or access rights to enter the woodland.

Protected trees have already been illegally felled by the applicant.

Response: Legal action was taken with regard to illegal tree felling in Hagg Wood and a successful prosecution was secured in the Courts. However this matter is a separate issue and is not a material planning consideration. Consequently it cannot influence the assessment of this application.

Local beavers and cubs groups use the wood for recreational activities which would be adversely affected by this proposal.

Response: Other than PROW Hol/32/40 which runs along the southern boundary of Hagg Wood, there are no other PROWs in the vicinity of the site or access rights to enter the woodland.

Allowing activities above the level of the existing quarry would result in problems associated with noise and dust travelling further.

Response: This matter has been considered in Paragraphs 10.14 and 10.16

The development would involve the loss of part of ancient woodland which would be contrary to national planning policy guidance.

Response: This matter has been considered in Paragraphs 10.22 to 10.24

The current use of the site is contrary to Green Belt policy

Response: This matter has been considered in Paragraphs 10.3 to 10.8

11.0 CONCLUSION

11.1 This proposal would allow a site which has previously received planning permission to be used to its full potential by providing a useable vehicular link between its two main areas. As previously indicated, the site is in a sensitive location with regard the potential impact on local ecology, habitat provision including ancient woodland and local heritage assets. However, Officers consider that the impacts associated with this development would be limited in scale and mitigation measures can be included to offset and any adverse effects.

11.2 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.

11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

12.0 CONDITIONS

1. Standard 3 years to implement permission
2. Standard condition requiring development to accord with approved plans
3. Development to be carried out in accordance with the amended supporting arboricultural method statement
4. Details of any tree work not identified in the supporting information to be submitted to and approved by the local planning authority
5. Within 7 days of works being carried out to any trees on site, written and photographic evidence to be submitted to the local planning authority demonstrating that the arboricultural supervision detailed in Sections 2.2 and 3.1 of the arboricultural method statement has been carried out.
6. The planting scheme specified in the amended arboricultural method statement shall be completed within 12 months of commencing development.
7. Prior to development commencing the submission and approval of an invasive weeds management protocol
8. Prior to development being brought into use the submission and approval of a lighting plan
9. All tree/vegetation works to be carried out outside the bird nesting season
10. Prior to development commencing re-survey work to be carried out in connection with the disused badger sett
11. The submission of details regarding ecological enhancements

12. Prior to the development being brought into use details of surfacing and drainage arrangements to be submitted to and approved in writing by the local planning authority.

13. Prior to the development being brought into use details of the safety barrier to be erected on the roadway shall be submitted to and approved in writing by the local planning authority.

14 .No Development to commence until dust suppression measures have been agreed.

Background Papers:

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f91676>

Certificate of Ownership –Certificate A signed: 12 May 2017

Report of the Head of Strategic Investment

STRATEGIC PLANNING COMMITTEE

Date: 21-Dec-2017

Subject: Planning Application 2017/93205 Development of a 20MW synchronous gas powered standby generation plant Land off Bradford Road, Rear of Batley Frontier, Batley, WF17 6JD

APPLICANT

Gareth Woodberry,
Shovel Ready Ltd

DATE VALID

15-Sep-2017

TARGET DATE

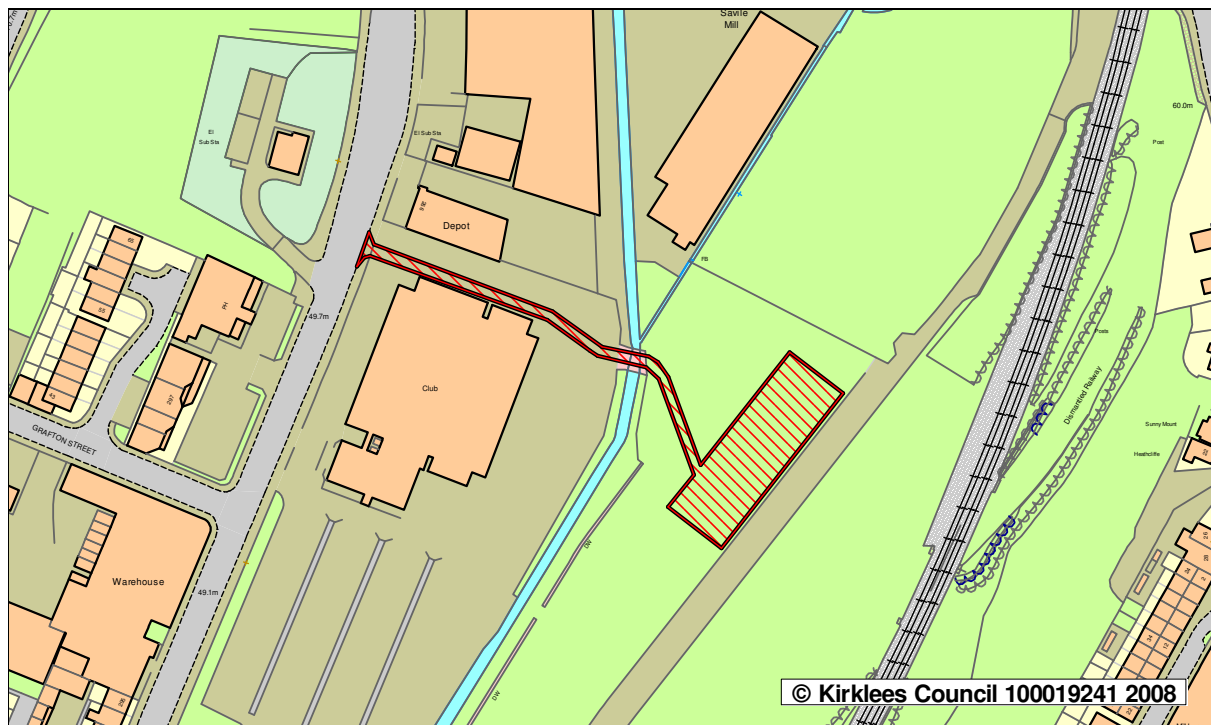
15-Dec-2017

EXTENSION EXPIRY DATE

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

Electoral Wards Affected: Batley East

Yes

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions including those contained within this report.

1.0 INTRODUCTION

1.1 The application is brought to the strategic planning committee for determination as the proposal involves the generation of more than 5MW of electricity. The application was presented to the Strategic Planning Committee on 30th November 2017 recommended for approval. The committee deferred the application to enable additional site publicity to be carried out and further information from the applicants with regard to air quality data and the distribution of operational hours of the facility.

2.0 SITE AND SURROUNDINGS

2.1 The application site is located approximately 0.5km south east of Batley town centre within an area which is without notation on the proposals map although it falls within a wider regeneration area. The immediate area surrounding the site has a mixed residential/commercial character. Whilst the site is on the periphery of an existing concentration of industrial/commercial uses, residential properties are situated both to the east of the site at a higher level (approx. 30m) and to the west on the other side of the A652 Bradford road. The main Dewsbury to Leeds railway line runs to the east of the site on an elevated embankment. The site forms part of a hard surfaced yard area measuring approximately 1650m² which appears to have been used as an overspill carpark for the former Batley Frontier Club which is now a fitness centre and Gym. A steep vegetated embankment, which includes mature trees, rises to the east of the site towards the railway embankment and then beyond to the rear of residential properties. Consequently, whilst the nearest residential properties are located approximately 130 metres from the boundary of the site, views of the site from these properties are screened.

3.0 PROPOSAL

3.1 The proposal is for the provision of a 20MW synchronous gas powered standby generation plant. Gas would be brought into the site via an underground pipeline to power the generators.

- 3.2 The primary function is to provide electricity to the local distribution network at times of peak demand. This mechanism for balancing the system ensures a sufficient supply of electricity is readily available to local homes and businesses at all times.
- 3.3 The proposed development will primarily respond to calls from National Grid in times referred to as 'stress events' – when the electricity networks' reserve power balance has been reduced due to a surge in demand, or reduced availability of large scale generation (i.e. coal, wind, solar).
- 3.4 Accordingly, when required by National Grid, the facility will be turned on remotely, the gas combusted and the combustion gas would spin a turbine to generate up to 20MW electricity which is exported to the local distribution network via the nearest appropriate substation.
- 3.5 The development comprises the following plant and equipment:
- 8 X 2.5 MW Gensets units located parallel to the access road, along the eastern boundary of the site. The engine containers will be 3.2 metres in height, within an additional 8.3m stack on top of them (totalling 11.5m in height). The engine units will be 15.4m X 3.2m
 - A gas module to the south of the site, 3m x 3m x 2.4m
 - A substation / switch room to the east of the gas module, 6m x 5m x 3m
 - A Transformer to the north of the switch room. This will be 5m x 4.2m x 4.9m
 - The erection of a palisade fence around the perimeter of the site
- 3.6 As the demand from the grid will dictate when this facility will operate, the applicant expects that the facility will generally operate between 07:30 and 20:30 hours. However, there may be occasions when it is required to operate outside these times but the applicant has confirmed this will not be between 23:00 and 07:00.

4.0 RELEVANT PLANNING HISTORY:

4.1 2007/92671 – Erection of Single Storey and first floor extension (approved 14.02.08)

2011/92411 - Change of use of night club to wedding venue/assembly and leisure (approved 23.11.11)

2016/91202 – change of use from nightclub/music venue to gymnasium (approved 22.06.16)

5.0 HISTORY OF NEGOTIATIONS:

5.1 N/A

6.0 PLANNING POLICY

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the

Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined 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. At this stage of the Local Plan process the Publication Draft Local Plan is considered to carry considerable weight in the determination of planning applications. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

6.2 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

D2 – Development on land without notation on the proposals map
D6 – Development within of adjacent to a green corridor
EP4 – Noise Sensitive Development
EP6 – Assessment of noise generated by development
G6 – Development involving potentially contaminated land
T10 – Highway Safety
T19 – Parking standards

6.3 National Planning Guidance:

NPPF Section 7 Requiring Good Design
NPPF Section 10 Meeting the Challenge of Climate Change, Flooding and Coastal Change
NPPF Section 11. Conserving and enhancing the natural environment

6.4 Kirklees Publication Draft Local Plan (KPDLP): Submitted for examination April 2017

PLP1 – Presumption in favour of sustainable development
PLP7 – Efficient and effective use of land and buildings
PLP 21 – Highway safety and access
PLP24 – Design
PLP27 – Flood Risk
PLP 30 – Biodiversity and Geodiversity
PLP51 – Protection and improvement of local air quality
PLP52 – Protection and improvement of environmental quality

7.0 PUBLIC/LOCAL RESPONSE

7.1 This application was publicised by the erection of 2 site notices in the vicinity of the site the mailing of 2 neighbourhood notification letters and an advertisement in the local press. However, following concerns raised by members when this application was considered at Strategic Planning committee on 30 November 2017, further site publicity was carried out. Two further site notices were erected to the east of the site on Bromley Street and at the junction of Bromley Street and Mill Lane and 36 neighbour notification letters were sent to the occupants of residential properties closest to the site

on Bromley Street and Mill Lane. This resulted in one representation from the public being received. This raised the following concerns:

- Noise from the development may have a detrimental impact on the occupiers of nearby residential properties
- The development may have a detrimental impact on the visual amenity of nearby residents.

7.2 Ward members have been consulted on the application but no response received.

8.0 CONSULTATION RESPONSES

8.1 Statutory:

K C Highways DM – No objection subject to a planning condition requiring the implementation of vehicle turning facilities prior to the development being brought into use.

The Environment Agency – No objection subject to planning conditions requiring:

- Finished floor levels of any builds (kiosk) are set no lower than 49.89mAOD.
- Flood Resilience and resistance measures will be incorporated into the proposed development as stated in the supporting FRA.

8.2 Non-statutory:

K C Environmental Health – No objection subject to planning conditions which require that:

Noise levels from the generators housed within a container do not exceed 65dB(A) LA,eq(5min) at 1m from the container in any direction.

The generators are not operated outside the hours of 07:00 to 23:00.

Measures are implemented to deal with any contamination not previously identified.

Also indicated that consideration should be given to requiring damage costs with regard to the proposal's effects on air quality.

K C Flood Management – Object as it is considered that the proposed surface water discharge rate is higher than 3l/s and could be reduced further by re-designing the attenuation measures

Northern Gas Networks – No response

9.0 MAIN ISSUES

- Principle of development
- Urban design issues

- Local amenity issues
- Local Environment
- Highway issues
- Flood Risk & Drainage issues
- Representations

10.0 APPRAISAL

10.1 Principle of development

10.2 The site is located within an area which is without notation on the proposals map and it is therefore considered that any development within this area of Batley should primarily accord with the criteria stipulated in UDP policy D2 and therefore should not prejudice:

- i the implementation of proposals in the plan;
- ii the avoidance of over-development;
- iii the conservation of energy;
- iv highway safety;
- v residential amenity;
- vi visual amenity;
- vii the character of the surroundings;
- viii wildlife interests; and
- ix the efficient operation of existing and planned infrastructure.

10.3 Due to the stage the emerging Local Plan has reached with regard to the examination process, it must now be given considerable weight in the consideration of planning applications. The implications of this proposal on the emerging plan must therefore be considered. However, the emerging local plan does not identify this site for any specific purpose. It is therefore considered that should this proposal be granted planning permission it would not prejudice the implementation of the emerging local plan.

10.4 It is therefore considered that this proposal is acceptable in principle subject to their being no conflict with local policies or national planning policy guidance.

10.5 Urban Design issues

10.6 The development comprises a series of eight 2.5 MW gas powered standby generators which each of which would be sited inside a metal container and include an 8.3m high exhaust stack, a gas module, a transformer and a small sub-station. The area would be enclosed within a metal palisade security fence.

10.7 Whilst this design of this development reflects its use and is purely utilitarian, it is considered that its location is such that it would not appear out of

character with the wider surrounding built environment which includes a range of building designs and a variety of tall structures including Mill chimneys, wind turbines and mobile telephone masts.

10.8 Consequently it is considered that this proposal would accord with policies BE1 or BE2 of the UDP, Policy PLP24 of the KPDL and national policy guidance contained in Section 7 of the NPPF with regard to design principles.

10.9 Local Amenity issues

10.10 The closest residential properties to the site are located approximately 130m to east off Bromley Street and Mill Lane and approximately 230m to the south west off Bradford Road. The properties to the east are at a significantly higher level but are screened from the site by a belt of mature trees which limits views from these properties although this screening effect will be reduced when the trees lose their leaves. Having said this the trees would still filter views of the site resulting in the outline of the development being obscured. Existing buildings to the west screen views of the site from residential properties to the west and those properties are unlikely to gain significant views of the development. It is therefore considered that visual amenity of the occupants of those properties would not be significantly affected by this development. Consequently this development accords with UDP policy D2 and Section 7 of the NPPF with regard to its effect on visual amenity

10.11 This development would result in the generation of noise when the plant is operating. The applicant has provided a noise assessment in support of the application which has assessed the current noise climate in the area and made predictions regarding the affect this development would have. The noise assessment concludes that this proposal, which would not operate at night, would be able to operate without creating any significant adverse impacts on the closest residential receptors.

10.12 The applicant has confirmed that, whilst this site would operate as a standby facility, the operational hours of the facility would be fairly evenly distributed throughout the year. The applicant has indicated that the reason for this operational pattern is that facilities of this type generally offset fluctuations in the generation of renewables (i.e. wind and solar) and renewable generation does not fluctuate significantly between winter and summer.

10.13 The applicant has provided data from a similar facility which is located at the 'Drove' in Bridgewater Somerset (Drove Peaker Plant) which demonstrates this and is summarised in the table below:

Month	Operational hours
January	123
February	88
March	90
April	67
May	106
June	111
July	107
August	122
September	104
October	109
November	90
December	92
Total	1209

- 10.14 In addition to the above data, the applicant has provided information regarding average hours of operation of standby plants over the last 6 years which indicates a monthly average ranging between 146 hours to 186 hours. Again this indicates generation activity is fairly evenly spread throughout the year.
- 10.15 Officers therefore consider that this proposal would accord with UDP policies D2, EP4, EP6, Policy PLP24 of the KPDLP and Section 11 of the NPPF with regard to its potential impact on the nearest noise sensitive properties.
- 10.16 Local environment issues
- 10.17 The site forms part of what was a hard surfaced overspill car park and its potential for wildlife habitat provision is therefore very limited. However, the site is close to the railway line which is identified as a wildlife corridor in the UDP and has been identified in the emerging local plan as part of a local wildlife habitat network.
- 10.18 The development would not physically impinge on the green corridor and due to the nature of its operation, which would be controlled remotely and involve very infrequent visits by members of staff for maintenance purposes, it is considered that this proposal would not detrimentally affect local wildlife using this corridor and would therefore accord with UDP policy D2, KPDLP policy PLP 30 and Section 11 of the NPPF with regard to its potential effect on local ecology.
- 10.19 When operating, this proposal has the potential to affect local air quality through the emission of increased levels of nitrogen dioxide (NO₂). The applicant has submitted an air quality assessment in support of this proposal which indicates that during an anticipated operation time of 1500 hours per year, NO₂ levels would increase slightly by around 2.2µg/m³ close to the site. The report concludes that this will only have a negligible to slight adverse impact and is unlikely to cause the annual mean National Air Quality Objective for nitrogen dioxide to be exceeded and as a consequence the effect on air quality will not be significant. Officers consider that this is an accurate assessment of the likely impact of this proposal on air quality.
- 10.20 The emissions release predictions relating to NO₂ were modelled using specifications data for the proposed generators, the spatial configuration of plant and 5 years of meteorological data collected from the Emley Moor meteorological monitoring station.
- 10.21 Following the consideration of this application at Strategic Planning Committee on 30 November 2017, the applicant subsequently confirmed that the assessment of the proposed power generation facility at Batley considered emissions of nitrogen oxides (NO_x) and the impacts in terms of nitrogen dioxide (NO₂), which is a component of NO_x only. The applicant has indicated that the combustion of natural gas does lead to the emission of gases other than NO_x, however, these are either non-harmful (such as carbon dioxide and water vapour), or are only emitted in trace (very small) amounts (such as particulate matter and volatile organic compounds).

- 10.22 The applicant has also indicated that the only pollutant other than NO_x, which is emitted from natural gas combustion in any significant quantities and which has a health-based exposure limit, is carbon monoxide (CO). The applicant's view is that CO emissions from natural gas combustion are very unlikely to lead to any significant air quality impacts where the impacts of NO_x emissions from the same plant are negligible or very small as is the case for this site. Officers consider that the additional information provided by the applicant since the last strategic planning committee meeting accurately estimates the likely impacts of emissions associated with this proposal.
- 10.23 As previously outlined, the applicant has confirmed that this proposal would not lead to electricity generation operations being concentrated within specific periods during the year. Consequently emissions produced when the facility is operating would be spread relatively evenly throughout the year.
- 10.24 Consideration has been given to seeking compensation through the development to offset this increase in NO₂ levels but this type of development offers no opportunity to incorporate such measures. Bearing in mind the very slight increase involved and that the overall annual mean National Air Quality Objective for nitrogen dioxide would not be exceeded, it is considered that this proposal would accord with KPDLP policy PLP 51 and Section 11 of the NPPF with regard to this development's impact on air quality.
- 10.25 Due to the history of the site, it is possible that the site could be contaminated and would therefore require satisfactory remediation during development. The applicant has carried out a Phase 1 contamination report which details a desk top study of the historical uses of the site and a risk assessment based on the proposed future use. It concludes that due to the low sensitivity of the future use, the risk is considered to be negligible.
- 10.26 The report also considers the potential for the future use introducing new contamination onto the site and the measures that will be used to prevent new contamination from occurring. The report assesses that the construction methods which are anticipated would not require significant penetration into the ground. However it also considers the possible need for piles and actions required if unexpected contamination is encountered.
- 10.27 Should planning permission be granted it is proposed to include a planning condition requiring measures to be implemented should unexpected contamination be discovered during construction operations. Subject to these measures, it is considered that this proposal would accord with UDP policy G6, KPDLP policy PLP 52 and Section 11 of the NPPF with regard to potential contamination resulting from the development of the site.
- 10.28 Highway issues
- 10.29 The site would be accessed via an existing surfaced road which crosses Batley Beck and would provide parking and turning facilities within the compound area. As the site would be operated remotely vehicle movements to and from the site would be infrequent.
- 10.30 It is considered that, subject to the provision of the proposed parking and turning facilities prior to the development being brought into use, these access arrangements would be satisfactory and the proposal would accord with UDP

policies T10 and T19 and KPDLP policy PLP 21 with regard to the potential impact this development would have on the local highway network.

10.31 Flood risk and drainage issues

10.32 The majority of this site falls within Flood Zone 1 although part of the access, where it crosses Batley Beck, falls within Flood Zones 2 and 3. However, bearing in mind the type of development involved and that the area where the generators would be sited falls exclusively within Flood Zone 1 (low risk of flooding), it is considered that a sequential test assessment is not required in this instance.

10.33 The applicant has provided a Flood Risk Assessment in support of this application which concludes that the proposed development would be operated with minimal risk from flooding and would not increase flood risk elsewhere.

10.34 The applicant proposes that surface water would be drained from the site via the nearby Batley Beck and that the proposed surface of the site would be designed to help to attenuate surface water run-off.

10.35 However, it is considered that the surface water drainage measures proposed would result in a higher discharge rate than is recommended for this type of development and could be reduced by re-designing site attenuation measures. Having said this, it is considered that this matter could be satisfactorily dealt with by the inclusion of a planning condition requiring the submission of a surface water management scheme prior to development commencing on site.

10.36 It is therefore considered that, subject to the inclusion of the aforementioned planning condition, this proposal would accord with KDLP policies PLP27 & 28 and Section 10 of the NPPF with regard to drainage and potential flood risk.

10.37 Representations

10.38 As previously indicated 1 letters of objection has been received in connection with this application, the relevant issues raised and associated responses are summarised as follows:

Noise from the development may have a detrimental impact on the occupiers of nearby residential properties

Response: This matter has been considered in Paragraph 10.11

The development may have a detrimental impact on the visual amenity of nearby residents.

Response: This matter has been considered in Paragraph 10.10

11.0 CONCLUSION

11.1 The proposal would provide a useful facility for the generation of electricity at peak times which would help manage demand on the Grid. It is considered that, whilst utilitarian, the design of the proposal is acceptable. Noise generated by the development would not have significant detrimental effects on the nearest sensitive receptors and would result in negligible impacts on

air quality in the vicinity of the site. The development is served by existing access arrangements and provides adequate parking and vehicle manoeuvring facilities within the site and it is therefore considered that it would not adversely affect the local highway network. Furthermore it is considered that this proposal would have no significant detrimental impact on the area's local environment.

11.3 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.

11.4 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Strategic Investment)

1. Standard 3 years to implement permission
2. Standard condition requiring development to accord with approved plans
3. No plant to be installed until its colour has been approved.
4. Development not to be brought into use until vehicle turning facilities have been implemented.
5. The implementation of measures to deal with unexpected contamination during construction including the submission, implementation of a site remediation strategy if required and subsequent validation.
6. Condition requiring:
 - Finished floor levels of any builds (kiosk) are set no lower than 49.89mAOD.
 - Flood Resilience and resistance measures will be incorporated into the proposed development as stated in the FRA.
7. Condition requiring the submission of a surface water management scheme
8. Hours of operation restricted to 07:00 to 23:00 on any day
9. Operation of Generators restricted to no more than 1500 hours per year and the submission of annual report if required to verify
10. The submission of a scheme indicating how the site will be artificially lit to protect local amenity and ensure the protection of local bat populations.

Background Papers:

Application and history files.

Website link:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f93205>

Certificate of Ownership – Notice served on site owner 15.09.17

Report of the Head of Strategic Investment

STRATEGIC PLANNING COMMITTEE

Date: 21-Dec-2017

Subject: Planning Application 2017/92997 Erection of 70 (over 55) retirement apartments comprising of four blocks, provision of a community building, electricity substation and laying out of internal roads, parking areas and greenspace and associated infrastructure. Lidl, Station Road, Mirfield, WF14 8LL

APPLICANT

Darren Smith, Darren
Smith Homes

DATE VALID

22-Aug-2017

TARGET DATE

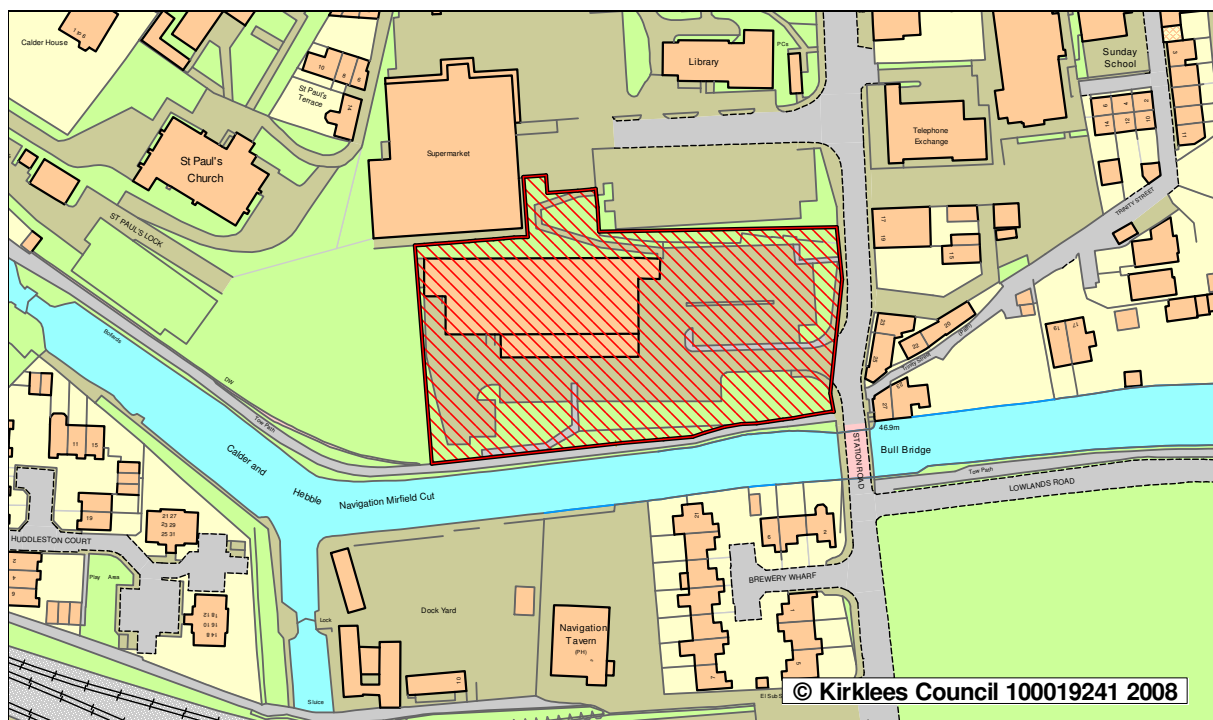
21-Nov-2017

EXTENSION EXPIRY DATE

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

Electoral Wards Affected: Mirfield

Yes

Ward Members consulted
(referred to in report)

RECOMMENDATION

DELEGATE approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions including those contained within this report.

1.0 INTRODUCTION:

- 1.1 The application was deferred by Strategic Planning Committee on 30th November 2017 in order to negotiate viability/developer contribution issues and discuss with committee. Since then the applicant has met with officers and has confirmed that further consideration will be given to the concerns raised by members during the meeting on 30th November, and a further viability appraisal will be submitted in order to fully outline costs associated with the works proposed to the canal side which would be publicly accessible.
- 1.3 A confidential appendix will be will be circulated to committee members includes the viability assessment so they can consider the viability issues involved with this application.
- 1.4 The application involves residential development on a site in excess of 0.5ha and it involves 70 units. It is referred to Strategic Planning Committee on this basis.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site is located immediately to the south of Mirfield town centre, and approx. 4.8km to the west of Dewsbury town centre. The northern boundary of the site abuts the public car park for the town centre, whilst the southern boundary abuts the Mirfield canal which is part of the Hebble and Calder Navigational Canal network. There are existing residential properties adjacent to the eastern boundary and to the west of the site is a mixture of residential and commercial buildings including former mills.
- 2.2 The site is roughly rectangular and was until recently in retail use with a surrounding car park area. The River Calder runs some 300m to the south of the site. The main Leeds to Manchester railway line runs between the site and the river on a raised embankment. There is vehicular underpass on Station Lane that the railway runs over Station Lane. The overall site area to be developed is approximately 0.7 hectares.

2.3 The existing site consists of a single storey steel portal framed building. The surrounding car park has levels varying from 47m in the north-east corner down to 45.0m AOD in the south west corner of the site. The canal footpath adjacent to the site is set around 43.75m AOD and is accessed by a pedestrian ramp down from the site or down a steep banking which has been partially landscaped.

2.4 To the north is a community car park area separated from the development site by a brick and stone retaining wall. There is a small rectangular area that forms a pedestrian access from the site up to the communal car park. Access for vehicles to the site is taken from Station Road. The levels rise from the site entrance to the town centre in the north.

3.0 PROPOSAL:

3.1 The scheme seeks to redevelop the existing Lidl site with a mixed-use scheme comprising of 70 apartments contained within four bespoke designed blocks with provision for a community building.

3.2 Vehicular access to the development will be provided from the existing site access on to Station Road located to the north of the bridge over the Calder and Hebble navigation canal. The junction is a simple priority junction with suitable kerbed radii on both sides and footways returning into the site.

3.3 The proposed form of the development will comprise of four blocks, accessed from Station Road, which will utilise the key aspects afforded by the waterfront and Station Road.

3.4 The apartments would comprise of two bedroomed units with undercroft car parking at ground floor with varying storey heights above dependant on the position within the development site.

3.5 The internal courtyard of the development would provide additional surface car parking and amenity space set within a landscaped environment.

3.6 The site offers the potential to provide a purpose built new community facility of circa 300m² over two levels, which could house the existing library and provide accommodation for various community uses and activities. In detail, the proposal includes the following elements:-

- Block A – 3 storey building fronting the canal containing 5no flats each with 2 bedrooms. Central lift shaft. Undercroft garage parking for 5no cars. The proposed building fronts the canal.
- Block B – 5 storey building with undercroft parking with a total of 24 parking spaces. A total of 28no apartments each with 2 bedrooms. Balconies to rooms on southern elevation. Upper floor to include a large terrace for those properties. The proposed building fronts the canal.
- Block C – 5 storey building with undercroft parking for 7 cars. A total of 14no apartments each with 2 bedrooms. A community facility area to the rear of the building. Hydrotherapy pool and changing rooms at ground floor level for use by residents.
- Block D – 3 and 4 storey building with undercroft parking for 24 cars. A total of 22no apartments each with 2 bedrooms.
- Landscaping of proposed garden area.

- Improvements to the canal towpath.

3.7 The enhancement of the canalside providing planting and seating along with direct pedestrian connections is also proposed.

4.0 RELEVANT PLANNING HISTORY:

4.1 2017/93757 – Prior notification for demolition of existing building – currently under consideration.

2011/09636 – Extensions and alterations to entrance and associated external works – approved (Lidl)

2011/91426 – Erection of 2no. internally illuminated signs and one 48 sheet advertising hoarding – approved (Lidl)

2009/91022 – Erection of extension to sales area and new entrance lobby & relocation of loading – approved (Lidl)

2009/91794 – Advertising consent for 2no illuminated signs – approve (Lidl)

5.0 HISTORY OF NEGOTIATIONS:

5.1 The scheme has been through an extensive pre-application exercise. The planning application submitted differed from the pre-application details in a number of ways. Officers have therefore, engaged with the applicant to ensure that alterations have been requested particularly to the design and appearance of the scheme in order to assimilate it effectively into the local environment and to ensure the scheme is in keeping with local vernacular.

6.0 PLANNING POLICY:

6.1 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 is currently in the process of reviewing its development plan through the production of a Local Plan. The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined 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. At this stage of the Local Plan process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

6.2 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

D2 – Land without notation
H1 - Housing Need
H10/12 - Affordable Housing
H18 - Provision of Open Space
BE1/2 - Design and the Built Environment
BE12 - New dwellings providing privacy and open space
BE23 - Crime Prevention Measures
EP10 - Energy Efficiency
EP11 – Landscaping
R18 – Development adjacent to canals and rivers
T1 - Sustainable Transport Strategy
T10 - Highways Safety / Environmental Problems
T16 - Pedestrian Routes
T19 - Off Street Parking
G6 - Contaminated Land

Kirklees Draft Local Plan Strategies and Policies (2017):

PLP3 – Location of New Development
PLP7 – Efficient and effective use of land and buildings
PLP11 – Housing Mix and Affordable Housing
PLP20 – Sustainable Travel
PLP21 – Highway safety and access
PLP22 – Parking
PLP23 – Core walking and cycling network
PLP24 – Design
PLP27 – Flood Risk
PLP28 – Drainage
PLP30 – Biodiversity and Geodiversity
PLP31 – Strategic Green Infrastructure
PLP32 – Landscape
PLP34 – Improving and enhancing the water environment
PLP35 – Historic Environment
PLP48 – Community facilities and services
PLP51 – Protection and improvement of local air quality
PLP52 – Protection and improvement of environmental quality
PLP61 – Urban Green Space
PLP62 – Local Green Space
PLP63 – New Open Space

6.3 Supplementary Planning Guidance:

- Providing for Educational needs generated by new housing
- Interim Affordable Housing Policy
- West Yorkshire Air Quality and Emissions Technical Planning Guidance
- Kirklees Landscape Character Assessment (2015)
- Kirklees Housing Topics Paper (2017)
- Planning Practice Guidance

Many policies within the National Planning Policy Framework are relevant to this proposal and, where relevant, are referred to in the main report text.

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been advertised in the press, by site notice and by neighbour letter. Four objections have been received summarised below. Unless otherwise stated, these comments are addressed in the main body of the report:

- Mirfield is oversupplied with residential developments for the elderly and care homes.
- The proposal does not add to the economic life of the town.
- The site should be retained for retail or leisure use.
- The development will result in the loss of the open green space and trees adjacent to the canal and consequent effect on aesthetic value. If the application is approved it should be conditional on this space being retained.

Officer response – this is not an area of greenspace and the site is brownfield. Redevelopment is not therefore, unacceptable in principle. Conditions are proposed requiring the submission of a landscaping scheme and biodiversity enhancements.

- Our house faces this proposed development directly on its south elevation and we note the lack of inclusion of our residential development in any document concerning the planning application. No photographs show the direct view across the canal from the south. However, this development proposal will obviously have a visual/privacy impact on us. The proximity of buildings to the existing canal wall mean we will be overlooked directly by flats in 'Block A' whose main windows will look down on the back of our property / our garden and the deep glass fronted balconies will bring the development closer.
- The large number of windows on the south facing blocks will produce a significant amount of glare which will impact on Mr a residents photophobia/disability. The height of the large blocks will impact on the natural light reaching the back of our property.

Officer response – The proposed development is considered to meet the Council's spacing standards as set out in policy BE12 of the UDP.

- Mature trees on the site are not even acknowledged by the developer on their 'planning application form' and will be removed. These trees offer screening to our property from the site and support rainfall drainage. While the plans show some replacement trees, none of these will provide screening to us.
- High density development will significantly impact on the sewerage system and providing larger pipes does not reduce the sewage load/ risk of flooding from the wider areas sewers/drains. The inclusion of appropriate SuDS give us some confidence in the developer's willingness to address the risks of flooding beyond the site. However, who will be responsible for maintaining this facility and where/how the potential pollution from any 'stormwater run off' to be managed?(as there are rats along the canal).

- We do not feel this plan is enhancing the public right of access or enjoyment at the canal side. No major landscaping planned here and nothing to soften the very tall 5 storey structure by the canal.

Officer response – the applicant proposes improvements to the canal. Conditions recommended.

- Whilst there are tall buildings in the centre of Mirfield, none appears as tall as block B and D / looks directly over another low level residential development. We assume the use of metal fencing is to permit drainage from the site. Perhaps a colour other than black might reduce its impact on the canal path which up to now has been a popular walkway but already looks/feels very different due to the loss of 'wall' seating and high fence erected to protect the site...it is unclear if this is the intended 'final construction' .. without the 'razorwire' top!

Officer response – Current fencing on the site is temporary and the proposals include boundary treatments including a wall along the canal frontage and hooped topped metal rail fencing. Conditions recommended.

- We assumed the developer had included the 'community block' in the development as there is no plan to include affordable social housing. However, it is clear there is an agreement for the developer to get the library building for redevelopment. If this is the case it seems a mockery of providing something for the community in amelioration for lack of provision of social housing when these facilities already exist. It is unclear who the proposed hydrotherapy pool would benefit other than residents of the development.

Officer response – A community space is proposed. However, there is no certainty at this stage that this would comprise a library facility and this is not necessary to make the development acceptable in planning terms so cannot be conditioned as a requirement.

- Block A presents unacceptable invasion of my privacy. Residents of this block will have unobscured views looking down onto both my living room and main bedroom, as well as into my back garden. Even were trees to be restored in between this block and the canal, there would be little improvement, although there might just be some improvement in the outlook from my property to the north, which is already going to be degraded.

- Block C presents an overbearing and oppressive structure bearing down over the whole area. From what I can tell of the plans, I will be living under the (possibly literal) shadow of a building akin to a former East European secret police headquarters. This is out of keeping with Mirfield, as well as being an unacceptable architectural statement for the local area.

- Despite the increase in traffic in the local area due to completion of the new Lidl site, I am far from convinced that the *additional* traffic due to these residences on Station Road is safe. Those of us who live here can see for ourselves that the bends and kinks necessitated by the position of the bridge over the canal make Station Road a difficult route for pedestrians to navigate at the best of times and before arrival of the new store, let alone an apartment complex. I do not see any useful solution to this issue being raised in the plans. The plans themselves would benefit from more consideration of the surrounding area. Side elevations that encompass not just the site itself but

also the surrounding area (including, clearly, Brewery Wharf to the south) would illustrate my objections - although I cannot help but think this is the very reason why they have been omitted. We have already had a disruption to local traffic thanks to the arrival of an unwanted Lidl store. Please help us to preserve the quality that makes Mirfield residents wish to stay in our own town, by requiring the developers to scale back on their plans at the very least, to stay within an acceptable level of local traffic disruption and preserve the nature of the town for all its current residents.

- I understand the proposed development is for a closed fenced, gated settlement. This would be anti-social because it would cut residents off from their neighbours and fellow citizens and increase fear of crime in the community. Door entry systems would provide adequate security for residents. If protection is wanted for parked vehicles this should be provided by garages or by compounds with resident-controlled access, The canal provides growing amenity for the town centre. Until fencing enclosed the site, easy access was available via a walkway from Mirfield Library Car Park and along a path provided by Lidl from its car park to the towing path. Access is still available from Station Road and from Newgate. However in the former case this is via a steep ramp or awkward steps and in the latter via a narrow cobbled way under Newgate Road Bridge. These are unsuitable for families with children in buggies and for those with disabilities. Easy access should be retained to facilitate full public enjoyment of this amenity.

Officer response – The applicant proposes improvements to the canal towpath which will improve the quality of the canalside environment for users of the towpath.

- The proposed buildings, especially that nearest the canal, would, because of their height and bulk, be overbearing and out of character with those in the town centre and nearby areas. High buildings in this location would also militate against public amenity by restricting views of the canal and across the valley. Traffic from the development (and from the recently completed Lidl Store) would cause problems on Station Road. These could and should be alleviated by using a narrow strip of land between Bull Bridge (over the canal) and the Library Car Park entrance. This appears to be in the ownership of the developer and/or Kirklees Council. It appears there would then be room for an additional traffic lane to link with that which already exists for left-turning and straight ahead traffic movements at the traffic lights/A644 Junction. The costs of this could and should be met by the developer. Landscaping proposals are unclear. There are small trees on the site which should be retained or replaced as part of a landscaping scheme.

Officer response - The height of the buildings proposed is acknowledged but overall it is considered that the scheme would make a contribution to the local area and improve the canalside environment. The application has been assessed by Highways DM and no objections are raised. Finally, a condition is proposed requiring the submission of a landscaping scheme.

- There should be provision for maintaining the landscaped area(s). If these matters are adequately addressed I would support the re-use of the site for residential purposes.

Officer response – landscaping within the site would be subject to a management plan which would require landscaping to be maintained.

- Mirfield Health Centre - We would like to understand what assessment has the developer undertaken to ensure the increase in population has on the local healthcare provision? The only GP practice in the local area would have grave concerns on the significant population increase this new development would pose on its resources in terms of appointment availability and home visit requirements. The practice would propose a discussion and assessment of this development and as a minimum impose a levy under the community Infrastructure Levy and planning obligations to help support its infrastructure should approval be granted.

Officer response - It is understood that the concern above relates not only to the increase in population as a consequence of development, but the increase in pressure on the health centre due to the restricted age group associated with the proposed development. There is no policy or supplementary planning guidance requiring a proposed development to contribute to local health services. However, PDLP policy PLP49 identifies Educational and Health impacts are an important consideration and that the impact on health services is a material consideration. As part of the Local Plan Evidence base, a study into infrastructure has been undertaken (Kirklees Local Plan, Infrastructure Delivery Plan 2015). It acknowledges that funding for GP provision is based on the number of patients registered at a particular practice and is also weighted based on levels of deprivation and aging population. Therefore, additional funding would be provided for the health centre based on any increasing in registrations at the practice. Long-term funding of health facilities is being considered as part of the Local Plan and Community Infrastructure Levy (CIL). Notwithstanding the above and the lack of evidence to support a contribution being necessary in this case; the applicant has submitted a viability appraisal and any contributions towards infrastructure would deem the current proposal unviable.

Spenn Valley Civic Society – Supports the proposal.

Although Spenn Valley Civic Society does not normally comment on planning applications outside its area, on this occasion we consider it appropriate to offer supporting comments. This proposed development appears to fit very closely to SVCS's ideas on housing development in town centres. The design appears well thought out and makes good use of limited space. There is a need for retirement housing throughout Kirklees and the location of this development is appropriate for the needs of retired people, being close to essential services, shops etc. The addition of communal activities adds to its attraction. We would hope that Kirklees Council sees the benefits of this type of development and supports similar projects which seek to maximise the use limited space through sensible design.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

Highways – No objection subject to conditions.

Canal and Rivers Trust –

Block 'B' of the proposed scheme is within 12m of moorings to the south of the site, and are also in proximity to a working boat yard (not owned by the

Trust) which is understood to operate seven days a week. These uses typically generate noise, smells and fumes through the operation of engines and general repair works. Whilst a noise assessment has been submitted by the applicant this does not consider the impact of these existing boating operations (with the assessment primarily being with regards to uses to the north of the site).

It is considered that further information is required to assess the potential impact of existing boating operations on the amenity of future residents, particularly any noise and air quality issues and to consider any mitigation necessary to avoid any amenity issues or complaints from future residents, to protect existing economic activities. Without this information, there is no confidence that apartments within Block B would not be subject to unacceptable levels of noise or odour or that the proposed location of Block B is acceptable. This information is therefore considered necessary prior to determination of the application.

The Ground Report submitted with the application dates from 1994/5 and has not been undertaken to current standards. The report is not considered sufficient to determine whether contamination is present on site which may present a risk to the canal during excavation and construction works. We therefore request that an up to date Phase 1 desk study report that fully considers the risks to the waterway and sets out measures to prevent any risk of contamination is submitted for consideration. This is in line with the principles of paragraphs 109 and 121 of the National Planning Policy Framework concerning pollution.

Proposed block 'B' is sited approximately 5m from the southern curtilage of the site, and 12m distant from boats moored to the south. The proposed block is 5-stories in height, and features main living windows and external balconies facing the canal. It is considered that the combination of height, proximity, and the presence of external balconies could result in a significant erosion of privacy for users of the existing moorings. The impact would be more significant than that from the neighbouring development to the west, where the approved building is not as tall and features a reduced number of balconies. The impact on the privacy of nearby residents does need to be considered in line with the aims of policy BE12 from the saved Kirklees Local Plan, which requires the need for design to ensure that no detriment will be caused to existing occupiers of adjacent premises. We therefore request that amendments are made to the scheme to reduce the perception of overlooking towards residential boats to the south. Measures could include the reduction to balcony numbers, the setting back of the building further from the canal (which could also reduce the potential for apartment residents to suffer from noise or odour nuisance from boaters), a reduction in height, and the inclusion of louvre screening to the remaining balconies.

In line with saved policy BE1 from the Kirklees UDP, development should be of a good quality, and contribute to the built environment, which should be visually attractive, and create a sense of local identity. The success in the scheme meeting the requirements of BE1 will depend upon the quality and type of materials and planting used within the buildings and landscaping scheme next to the canal, especially with regards to the replacement wall, new access point, and the railings shown.

The indicative landscaping arrangements do not show any positive engagement with the canal, and we would encourage the developer to consider the opportunity to create a more engaged landscape design aside of the canal for the occupants to enjoy as an amenity area as the scheme is developed further.

We request that full hard and soft landscaping details and southern boundary treatments are reserved by condition prior to development of that element so that the materials and planting can be fully assessed against the requirements of this policy. The use of appropriate native planting between the building and the canal would assist in enhancing the waterway corridor.

In addition to the above, we do note that the ground floor of the block 'B' will be visible from the canal. The narrow openings to the parking area of the block risk making the immediate ground floor appear overbearing to the neighbouring towpath. We therefore would request that consideration is given to widening the openings shown so that they mirror the width of the openings above, which would improve the appearance of this elevation. This would also mirror the arrangement approved for the parking areas upon the development to the west of the site.

In line with paragraph 120 of the National Planning Policy Framework, there is a need for planning decisions to ensure that new development is appropriate for the location to prevent unacceptable risks from land instability. The Planning Practice Guidance (PPG) confirms the important role of the planning system in considering land stability by minimising the risk and effects of land stability on property, infrastructure and the public. (Paragraph: 001 Reference ID: 45-001-20140306). The proposed building works will be situated within proximity to the canal, and will include new retaining walls to deal with the land levels on site.

The developer will need to demonstrate that any temporary or permanent works associated with the proposed development will not impose any additional load onto the canal wash wall and that foundations provide support to his development without any negative impact on the Trust's assets, such as the towpath, walls, or the canal itself. We therefore request that any consent includes pre-commencement conditions that require the submission of foundation details, including cross sectional drawings showing their relationship relative to the canal.

A Construction Management Plan should also be required to include, details of the proposed location of plant and equipment in proximity to the canal, and proposed construction methodology to limit the presence of heavy or disruptive equipment in locations that could affect the stability of the land sloping towards the canal.

We would also request that details of surface water drainage are secured by planning condition, as unintentional runoff from the site towards the canal could undermine the slope stability here.

Flood Risk

We note that the Flood Risk Assessment provided includes a statement that the canal flood gates protect the site from flood risk to the 1:100 level. The

Trust cannot confirm if this statement is accurate, and our infrastructure cannot therefore be relied upon to provide flood protection to this level.

Impact on Biodiversity

In line with paragraph 109 of the National Planning Policy Framework referred to above, there is a need to mitigate any harm to biodiversity on the site, and to provide net gains to biodiversity on site. We would request that any future landscaping scheme considers the use of native planting and measures to increase biodiversity.

8.2 **Non-statutory:**

Crime Prevention – The proposed blocks B, C and D include having undercroft parking areas. Unless secured properly, and given additional surveillance, such areas can become havens for unseen loitering, anti-social behaviour and crime. What measures are intended to secure these areas?

Adequate surveillance is needed to avoid the opportunity for loitering, car crime, risk to personal safety of residents, and fear of crime. In addition, doors connecting from the under crofts directly into the residential areas of the buildings can be vulnerable as entry points for burglary.

Officer Response – The applicant is preparing a response, the contents of which will be provided to Strategic Planning Committee as an update.

Strategic Housing – No objection. 20% affordable housing required.

Lead Local Flood Authority – No objection in principle.

The applicant has developed a suitable drainage concept and has a potentially suitable solution. However, given the proximity to a Kirklees 'Indicative critical drainage area' and using National advice discharges should be reduced to Greenfield Rates OR as low as reasonably practicable. Reviewing the plans I anticipate that the applicant could provide some additional storage using Geocellular structures or some increases in Pipe sizes to provide increased storage. This would provide betterment above the upper limit of a 30% reduction and would be in the community interest to do so. We request the applicant investigate what is the maximum attenuation feasible on the site and then calculate what discharge rate the site could restrict down to.

Officer Response – The applicant is preparing a response to the comments from the Council's Drainage Engineer. These will be reported to Strategic Planning Committee as an update.

Environmental Health – No objection. The existing boat yard lies adjacent to a housing development and Pollution and Noise Control have confirmed that there has not been a noise complaint for at least 10 years. In addition, a similar residential development has been granted on the adjacent site on the same side of the canal as the proposal. Consequently, whilst Pollution and Noise require additional information to ascertain noise levels from surrounding properties; they are satisfied that mitigation measures can be incorporated in order to address noise impact so that residents indoors and outdoors will have an acceptable level of amenity.

Pollution and Noise also confirm a number of additional conditions relating to Air Quality and Contaminated Land.

9.0 MAIN ISSUES

Principle of Development
Impact on Surrounding Area and Landscape
Neighbour Amenity Implications and Relationship with Surrounding Uses
Highways and Traffic Implications
Flood Risk Issues
Ecological Issues
Heritage Issues
Planning Obligations and Developer Contributions
Other Issues
Conclusion

10.0 APPRAISAL

Principle of development

- 10.1 Planning law requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) is one such material consideration. The starting point in assessing any planning application is therefore, to ascertain whether or not a proposal accords with the relevant provisions of the development plan, in this case, the saved policies in the Kirklees Unitary Development Plan, 1999 (UDP). If a planning application does not accord with the development plan, then regard should be had as to whether there are other material considerations, including the NPPF, which indicate that planning permission should be granted.
- 10.2 The NPPF is a Government statement of policy and is therefore, considered an important material consideration especially in the event that there are policies in the UDP which are out-of-date or inconsistent with the NPPF. Paragraph 215 of the NPPF reinforces that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF.
- 10.3 The NPPF seeks to *“boost significantly the supply of housing...” (para 47)*. Para 47 then goes on to describe how local authorities should meet the full objectively assessed need for market and affordable housing. This requires a range of measures including ensuring a deliverable five year supply of housing. Para 49 states that *“housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites”*.
- 10.4 As evidenced in recent appeal decisions (eg. APP/Z4718/W/16/3147937 - Land off New Lane, Cleckheaton), the Council are falling foul of their requirement to ensure a five year housing land supply by a substantial margin. This is important in the context of paragraph 14 of the NPPF.

- 10.5 Para 14 of the NPPF states that for decision-taking, the presumption in favour of sustainable development means:
- Approving development proposals that accord with the development plan without delay, and
 - Where the development plan is silent, or relevant policies are out-of-date, granting planning permission unless:
Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole; or
Specific policies in the Framework indicate development should be restricted.
- 10.6 As the Council are unable to demonstrate a 5 year housing land supply as required by para 49 of the NPPF, relevant policies relating to housing are considered to be out-of-date. Indeed, the housing land supply shortfall is substantial and falls below 3 years. Whilst the Council have submitted the emerging Local Plan for examination which, for housing purposes, is predicated on the basis of a five year housing land supply; the Local Plan has not been through examination, nor has it been adopted.
- 10.7 Based on the above, there is a presumption in favour of sustainable development and planning permission should only be refused where there are adverse impacts which would significantly and demonstrably outweigh the benefits.
- 10.8 The site is allocated as land without notation (unallocated) on the UDP and in the emerging Kirklees Publication Draft Local Plan (PDLP). Therefore, policy D2 is applicable in this case and residential development is not necessarily unacceptable in principle. It is also the case that the site constitutes brownfield land.
- 10.9 Whilst the PDLP is predicated on the basis of a deliverable five year housing land supply, it has not yet been adopted. Therefore, as the Council is unable to demonstrate a five year housing land supply and housing delivery has persistently fallen short of the emerging Local Plan requirement. This triggers the presumption in favour of sustainable development as advocated by para 14 of the NPPF.

Accessibility

- 10.10 The site is well positioned in terms of residents being able to walk to Mirfield centre where there are a wide range of services.
- 10.11 The footway network along Station Road provides a suitable link with the town centre of Mirfield to the north of the application site and the rail station to the south. Within the recommended maximum walking distance are the local shops and services within Mirfield including a supermarket, butchers, a bank, a post office, a doctor's surgery, dentists, pharmacy and various food and takeaway outlets, restaurants and cafes. The rail station is also well within the walking catchment area for the site. To assist pedestrians to safely access these shops and services within the town centre there are pedestrian crossing facilities at most junctions and signalised crossing points on the Huddersfield Road within the town centre.

- 10.12 The nearest bus stops are located on the Huddersfield Road a maximum distance of 200 metres from the application site. The Huddersfield bound fare stage has the benefit of a passenger shelter & timetable case. The Dewsbury bound stop has a flag / pole and raised boarding kerbs. These bus stops provide access to the several bus services. The nearest railway station from the application site is Mirfield Railway Station located just 250 metres or so to the south of the application site.
- 10.13 The site is well located in terms of access to the cycle network including route 67 and the 'Wonders of Wakefield' cycle route.
- 10.14 Overall the site lies in a wholly sustainable location and there are opportunities to access the local services by a range of non-car modes.

Impact on Character of Surrounding Area and Landscape

- 10.15 Section 11 of the NPPF sets a wide context to conserving and enhancing the natural environment and requires that valued landscapes are protected and enhanced and requires that the level of protection is commensurate with the status and importance of the landscapes.
- 10.16 Policy BE1 of the UDP requires that all development should be of good quality design such that it contributes to a built environment. Policy BE2 states, amongst other matters, that new development should be designed so that it is in keeping with any surrounding development. Policy R18 requires development to have regard to the waterside environment. Policy PDL24 of the PDL requires that good design to be at the core of all planning decisions.
- 10.17 The site lies along the Calder and Hebble Navigation which forms a 'cut' linking to the River Calder to the east and west. Adjacent to the site lies an area of land which is currently undergoing redevelopment by the same applicant as the current proposal. The adjacent scheme comprises the erection of 36 apartments (for the over 55's) which were approved under planning permission 2009/93133. There is a current application under consideration to vary the window and materials details of the approved scheme which is currently being considered under planning application 2017/90550.
- 10.18 The current proposal is intended to continue with the same theme as the adjacent apartment blocks. The application involves the erection of four bespoke blocks, two of which front the canal, with the other two blocks being situated behind. Two of the proposed blocks would front Station Road to the east of the site.
- 10.19 There are considered to be two key views of the site; one being the view from the canal side to the south and the other being the view from Station Road to the east. To a lesser extent the site would also be visible from Mirfield centre. The adjacent, approved scheme has a maximum height of three storeys, with each of the buildings including a pitched roof with fenestration detailing and traditional architectural elements included within each block. The design of the blocks is reminiscent of a traditional mill type building but with a bespoke and contemporary feel, including the provision of lightweight balconies to the front elevation of those apartments facing the canal. To a large extent the current proposal reflects this approach.

- 10.20 The scheme has been designed so as to step down from west to east with the most prominent and large building – Block B – being located in the western portion of the site. The building would be larger than the adjacent, approved blocks and would be designed with the upper floor set back behind a parapet which will accommodate a roof terrace at 5th floor level. The proposed block has been amended so it now includes a pitched roof form. Despite the scale of the building, it is considered that the canalside offers a relatively large area of flat waterfront which would be able to accommodate the scale of the building as proposed without it overwhelming the local area. Whilst the building would be a large feature for users of the canal towpath, landscaping is proposed and there is fencing and a wall to reduce the impact the ground floor parking area may have on the towpath. The fact that block B is flanked by block A, which is three storey in height, means that the development successfully scales down to Station Road to the east. On the western side the already approved block is 3.5 storeys and the height of the approved development progressively diminishes in height towards St Paul's Lock.
- 10.21 When viewed from Station Road, amendments which the applicant has made to the appearance of Block C significantly improve its appearance. The three storey element positioned closest to Station Road includes a pitched roof with the four storey part of the building set within the site comprising an asymmetric roof form. There are windows proposed on this elevation ensuring a positive relationship with the street. The undercroft parking area would be obscured by planting and fencing. Block A would also be visible from Station Road, this being three storeys in height. Whilst Block B would also be visible given its height; as it is proposed behind Block A from this viewpoint, the fact it is set back into the site means it would not appear as an overbearing and oppressive feature when viewed from Station Road.
- 10.22 Views of the site from Huddersfield Road which runs through Mirfield would be filtered by the existing library building, trees which run along Huddersfield Road and a change in levels between Huddersfield Road and the canal. Therefore, whilst there would be views of the development from Mirfield centre, the design and appearance would not be detrimental to the character and appearance of the main street running through Mirfield.
- 10.23 Comments have been made by local residents concerning the loss of trees on site. The proposal includes a landscaping scheme which would include new trees being planted along the site frontage; existing trees are not protected. Planting is also proposed within the site and along Station Road. Full details are to be secured via planning condition along with boundary treatments to ensure that fencing/walling is sympathetic to the surrounding area.
- 10.24 The applicant also proposes to enhance the canalside by providing planting and seating along the canal thus improving the quality of the environment for residents and users of the canal alike. It is proposed to secure full details via planning condition, but the intention is to continue the works that have already been carried out on the canalside in front of the adjacent development.
- 10.25 Overall the proposed development is considered to represent a high quality design in keeping with the adjacent development and sympathetic to the character and appearance of the area. The scheme has incorporated traditional architectural elements and would utilise materials to match the adjacent residential development. The proposed amendment to the scheme, which includes incorporating a pitched roof to all the apartment blocks, assists

in assimilating the development with the local area. The scheme is considered to improve the canalside environment and this, coupled with the proposed improvement to the amenity space along the towpath, would ensure that the waterside environment was improved in accordance with policy R18 of the UDP.

Public Open Space

- 10.26 The proposed development does not include any public open space (POS). Policy H18 of the UDP requires 30sqm of Public Open Space per dwelling on development sites in excess of 0.4 hectares.
- 10.27 There is an area of land adjacent to the site accommodating a number of protected trees, to the rear of the Coop retail unit and the adjacent residential development, which has planning permission for a change of use to a garden/amenity space together with associated landscaping, footpaths and seating area (planning reference – 2015/93074). This permission has not yet been implemented, nor was it a requirement of planning permission 2009/93133 for the adjacent residential development. The current application would provide a footpath link to this amenity space. However, this area of open space would only serve the occupiers of the proposed apartments as a private area of amenity space. Therefore, it would not form an area of POS.
- 10.28 The applicant has also upgraded the towpath to the canal frontage of the adjacent development (this was not a requirement of the planning consent). The current proposal intends to continue these improvements along the canal frontage by way of a scheme which has yet to be agreed with the Council and Canal and Rivers Trust (this could be conditioned). This would constitute a significant benefit as the canal towpath forms part of the core walking and cycling network and is an important piece of green infrastructure and improvements to this are advocated by policy PLP23 and PLP31 of the PDLP. In accordance with para 73 of the NPPF, the scheme provides access to high quality open spaces which can make an important contribution to the health and well-being of communities.
- 10.29 Nevertheless, having regard to the above, whilst improvements to the canal side are welcomed and would offset POS requirements to an extent, those improvements would not negate the need for a POS contribution in this case. The Council's landscape officer has commented on the proposal and based on the floor area of the proposed development, the development would generate a required contribution of £139,150 (£241,524 if a play area/equipment is included). The landscape officer has commented that Ings Grove Park and Mirfield Memorial Park is nearby and any contribution could go towards upgrading facilities at these areas of POS.

Neighbour Amenity Implications and Relationship with Surrounding Uses

- 10.30 Para 123 of the NPPF indicates that planning policies and decisions should aim to:
- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
 - mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through use of conditions.

- 10.31 Policy BE12 of the UDP provides guidance on appropriate separate distances for dwellings. PLP24 of the PDLP requires developments to provide a high standard of amenity for future and neighbouring occupiers.
- 10.32 There are a number of residential properties on the opposite side of the canal, the rear and side elevations and gardens of which face the application site. The rear of no's 2 – 6 Brewery Wharf face the application site at a distance of approximately 21m from the rear garden of these properties to the facing elevation of Block A, and approximately 30m from the rear elevation of these properties to the facing elevation of Block A. Block A is a three storey building and whilst it is understood that balconies would face existing properties; the distances above are considered sufficient to ensure no unacceptable overlooking or loss of privacy. No 21 Brewery Wharf is closer to Block A but the existing dwelling faces the site at a 90 degree angle and therefore, there would be no unacceptable overlooking or loss of privacy for existing habitants.
- 10.33 It is understood that Block B would be 5 storeys in height and include a roof terrace. However, it would be positioned approximately 45m from no's 2 – 6 Brewery Wharf at an oblique angle. There would be no unacceptable level of overlooking/loss of privacy given the distance involved.
- 10.34 Within the development it is accepted that there would be some overshadowing and potential loss of outlook for future occupiers within the southern elevation of Block C and Block D as they would face apartment blocks B and A to the south at a distance of 19m and 15m respectively. However, given that the proposal involves apartment blocks and there is an area of outdoor amenity space dedicated to this proposal, on balance it is considered that future occupiers would have access to amenity space despite potential impacts on their apartments.
- 10.35 The Canal and Rivers Trust have raised concerns with the scale of the development and the potential overlooking of the moorings on the canal. There are 5no mooring posts located along the banks of the canal adjacent to Block A and part of Block B with further moorings to the west close to the adjacent development. There are a number of other boats located at the side of the boat yard. There is no evidence to suggest that the existing moorings offer permanent residence; the mooring posts closest to Block A all appear to be for leisure use. The transient nature of canal users means that the effects on users of the moorings would be for a limited period and any impact should be weighed against the wider benefits of regenerating this part of Mirfield. With respect of the concerns raised by the Canal and Rivers Trust in terms of the potential noise from the boat yard which lies on the opposite side of the canal; Environmental Health have assessed the proposal and raise no objections on the basis that no complaints have been received concerning noise from the boat yard even though there are a number of existing properties in very close proximity of the boat yard. A planning condition is recommended requiring the submission of a revised noise report and appropriate mitigation measures.

Highways and Traffic Implications

- 10.36 Policy T10 of the Kirklees UDP states that new development will not normally be permitted if it will create or materially add to highway safety issues. Policy PLP21 of the PDLP aims to ensure that new developments do not materially

add to existing highway problems or undermine the safety of all users of the network. Para 32 of the NPPF states:

Plans and decisions should take account of whether:

- *the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;*
- *safe and suitable access to the site can be achieved for all people; and*
- *improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*

- 10.37 Vehicular access to the development would be provided from the existing junction on Station Road located to the north of the bridge which runs over the Calder and Hebble canal. The current proposals would utilise the existing access which served the Lidl supermarket and extend pedestrian provision along both sides of the access.
- 10.38 In terms of trip rates, the proposed apartments would generate approximately 6 trips during the AM peak and 8 trips during the PM peak. This is considered to be significantly less than the previous Lidl store at peak times and throughout the day. The community building and pool would generate a relatively low number of trips with access taken via the existing car park access to the north.
- 10.39 In terms of parking provision, the proposed parking provision for apartments would be 100% plus 16 visitor spaces which is slightly less than the UDP parking standards recommendations (a total of 86 spaces are proposed). Parking for the community facility and pool would be provided by the existing car park to the north.
- 10.40 Highways DM have assessed the proposal and consider that, given the sustainable location in Mirfield town centre and that sufficient off-street parking and internal refuse vehicle turning is proposed and that this proposal is not anticipated to be a significant traffic generator, the proposals are considered acceptable from a highways point of view and no objections are raised.

Flood Risk and Drainage

- 10.41 Para 100 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. On the basis that the site lies in Flood Zone 1 (lowest risk of flooding from rivers or the sea), a sequential test is not required in this case.
- 10.42 The submitted Flood Risk Assessment (FRA) considers the risk of flooding from various sources including rivers, groundwater, artificial sources and surface water.
- 10.43 It is proposed to utilise drainage by soakaways which will be located in rear gardens and within the highway. The Council's drainage officer has assessed the proposal and raises no objection in principle subject to the imposition of

appropriate conditions. The National Planning Practice Guidance (NPPG) states that the aim of a drainage scheme should be to discharge run-off as high up the hierarchy as practicable:

- 1 – into the ground (infiltration)
- 2 – to a surface water body
- 3 – to a surface water sewer, highway drain, or another drainage system
- 4 – to a combined sewer

- 10.44 The site falls within flood zones 1, 2 and 3. Flood zone 3 is at the western end of the site with flood zone 1 being at the eastern end. The extent of flood zone 3 is very limited whilst flood zone 2 extends over 60% of the remainder of the site. The site is not considered to form part of the designated flood plains and is therefore designated as Flood Zone 3a at the western end. Part of the site may be considered to be at risk from fluvial flooding from rivers or sea for the 1 in 100 year event and most of the remaining site for the 1 in 1000 year flood event.
- 10.45 The blocks are all designed so that the residential elements are all at first floor level i.e. floor levels around 49m AOD or above which is well above the 1 in 100 and 1 in 1000 flood level. The access into these buildings are all at a level of 46.15 or above and therefore not affected by flood events up to the 1 in 100 year event.
- 10.46 There is a requirement to reduce run-off from the site by 30% and this would be achieved by provision of attenuation storage with a hydraulic flow control device. The applicant states that surface water would discharge into the combined sewer. However, a condition is required in order to detail full drainage details and appropriate investigation of surface water discharge so that water is disposed as high up the hierarchy as practicable. Yorkshire Water and the Lead Local Flood Authority (Council Drainage) raise no objections subject to final details being agreed. The scheme is considered to comply with PLP28 of the PDLP and the NPPF.

Ecological Issues

- 10.47 UDP policy EP11 requires that application incorporate landscaping which protects/enhances the ecology of the site. PDLP policy PLP30 states that the Council will seek to protect and enhance the biodiversity and geodiversity of Kirklees, including the range of international, national and locally designated wildlife and geological sites, habitats and species of principal importance and the Kirklees Wildlife Habitat Network.
- 10.48 The applicant has submitted an ecology report and additional detail concerning the potential for bats to be roosting on site. The Council's biodiversity officer has assessed the proposal and considers roosting bats are unlikely to be a constraint at the site. However, the canal side location of the site means that there is potential for significant ecological enhancement. Consequently, conditions are recommended concerning sensitive lighting, landscaping and an ecological enhancement and management plan. The application is considered to comply with policy EP11 of the UDP and PLP30 of the PDLP.

Heritage Issues

- 10.49 Section 66 (1) of the Listed Buildings Act states “in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”. Para’s 126-141 of the NPPF are relevant to the determination of applications affecting heritage assets.
- 10.50 There are a number of Grade II listed assets within proximity of the site. St Paul’s church lies 60m to the north west of the site but views of the church are obscured by the adjacent permitted apartment development (2009/93133). It is considered that the impact on the setting of the church is limited by the intervening buildings and therefore, there would be less than substantial harm to the setting of the listed building. This harm should be weighed against the public benefits of the scheme.
- 10.51 The lock gates further along the canal approximately 110m to the north west are Grade II listed but there is considered to be minimal impact on the setting of this structure.

Planning Obligations and Developer Contributions

- 10.52 In accordance with para 204 of the NPPF planning obligations should only be sought where they meet the following three 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.
- 10.53 In circumstances where a developer considers that there are site-specific issues which would mean the effect of policy requirements and planning obligations would compromise development viability, paragraph 173 of the NPPF states that in order to ensure viability, the costs of any requirements for affordable housing, standards, infrastructure and other requirements should provide a competitive return to a willing landowner and development to enable the development to be delivered.
- 10.54 Paragraph 176 makes clear that where safeguards are necessary to make development acceptable in planning terms, and these safeguards cannot be secured, planning permission should not be granted for unacceptable development.
- 10.55 The applicant submitted a viability appraisal which following the committee meeting on 30th November 2017 the applicant has updated this information which has been assessed by one of the council’s independent viability advisors. These details contain commercially sensitive information that will be included within a private appendix that is exempt from public view.

Other Matters

- 10.56 The application was accompanied by a phase I/II report which stated that the site was uncontaminated. Environmental Health has assessed the report and raises no objections.

10.57 In respect of air quality, the application has been assessed against the West Yorkshire Low Emission Strategy Planning Guidance. In accordance with the guidance the installation of 1no electric charging point is required per unit or 1 charging point per 10 spaces and this would be secured by planning condition.

11.0 CONCLUSION

- 11.1 The application site lies on a brownfield site which has recently been used as a supermarket and associated car park. The site constitutes an area of land unallocated on the UDP and the PDLP. The Council are unable to demonstrate a five year housing land supply and the NPPF seeks to boost significantly the provision of housing. The proposed development offers a needed, high quality type of accommodation for the over 55's and an area of floorspace for community use. The site is accessible to local facilities. These aspects weigh significantly in favour of granting planning permission.
- 11.2 The proposed development proposes relatively large apartment blocks set on the canal side. Despite the large scale, the scheme has been designed in keeping with local vernacular and is scaled down so that it is less prominent where it meets Station Road to the east. The prominent, statement building proposed on the canal frontage is considered to be well designed. Overall, the design of the scheme is considered to represent high quality in accordance with policies BE1, BE2 and R18 of the UDP and PLP24 of the PDLP.
- 11.3 In terms of amenity, some impacts have been identified, particularly the impact on the leisure mooring located at the canal side and the amenity of some of the occupiers of future occupiers of the apartments within blocks to the rear of the site. However, given the transient nature of canal users and the wider benefits the regeneration of the site would bring, impact on amenity is not considered to represent significant and demonstrable harm.
- 11.4 The applicant has submitted a viability appraisal. These details contain commercially sensitive information that will be included within a private appendix that is exempt from public view.
- 11.5 The relatively minor impact on the setting of St Paul's Church, which is considered less than substantial in NPPF terms, is considered to be outweighed by the public benefits associated with redeveloping this site for the housing type proposed.
- 11.6 All other matters concerning flood risk, highways, heritage, ecology and landscaping have been suitable addressed. There are no adverse impacts of granting planning permission which would significantly and demonstrably outweigh the benefits. Overall the proposal constitutes a sustainable form of development.

12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Strategic Investment)

- 1. 3 years**
- 2. Materials**
- 3. Drainage details**
- 4. Details of boundary treatments**
- 5. Landscaping plan**
- 6. Lighting details**
- 7. Biodiversity enhancement**
- 8. Structural report concerning canal retaining wall**
- 9. Contaminated land conditions**
- 10. Construction management plan**
- 11. Full details of balcony detailing and roof terrace screening**
- 12. Noise report**
- 13. Details of pedestrian access and gradients from car park**
- 14. Turning facilities to be provided**
- 15. Cycle storage**
- 16. Gates to be set back**
- 17. Canal improvement scheme including full details of implementation and date**
- 18. Amenity garden space 2015/93074 to be provided prior to occupation**
- 19. Occupancy restriction – over 55's.**
- 20. Finished floor and ground levels**
- 21. Details of surfacing of internal paths**
- 22. Crime Impact and Mitigation Strategy**
- 23. Landscaping which shall include a strategy for maintenance**

Background Papers:

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f92997>

Certificate of Ownership – Notice served on/ or Certificate A signed: Applicant

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