

Public Document Pack



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

Julie Muscroft

The Democracy Service

Civic Centre 3

High Street

Huddersfield

HD1 2TG

Tel: 01484 221000

Please ask for: Richard Dunne/Sheila Dykes

Email: governance.planning@kirklees.gov.uk

Wednesday 10 November 2021

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 18 November 2021**.

(A coach will depart the Town Hall, at 10.30am to undertake Site Visits. The consideration of Planning Applications will commence at 1.00 pm in Huddersfield Town Hall.)

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", on a light-colored background.

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 Carole Pattison
Councillor Mohan Sokhal
Councillor Donna Bellamy
Councillor Mark Thompson
Councillor Andrew Pinnock
Councillor Charles Greaves

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

B Armer
A Gregg
V Lees-Hamilton
R Smith
D Hall
J Taylor

Green

K Allison
S Lee-Richards

Independent

T Lyons

Labour

M Akhtar
E Firth
M Kaushik
J Ramsay
C Scott

Liberal Democrat

PA Davies
J Lawson
A Marchington
A Munro

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

To receive any apologies for absence, or details of substitutions to Committee membership.

2: Minutes of the Previous Meeting

1 - 8

To approve the Minutes of the meeting of the Committee held on 21 October 2021.

3: Declaration of Interests and Lobbying

9 - 10

Committee Members will advise (i) if there are any items on the Agenda upon which they have been lobbied and/or (ii) if there are any items on the Agenda in which they have a Disclosable Pecuniary Interest, which would prevent them from participating in any discussion or vote on an item, or any other interests.

4: Admission of the Public

Most agenda items will be considered in public session, however, it shall be advised whether the Committee will consider any matters in private, by virtue of the reports containing information which falls within a category of exempt information as contained at Schedule 12A of the Local Government Act 1972.

5: Public Question Time

To receive any public questions.

In accordance with:

- Council Procedure Rule 11 (3), questions regarding the merits of applications (or other matters) currently before the Council for determination of which the Council is under a duty to act quasi judicially shall not be answered.
 - Council Procedure Rule 11 (5), the period for the asking and answering of public questions shall not exceed 15 minutes.
-

6: Site Visit - Application No. 2021/90357

Works to existing sports facilities including erection of a clubhouse, additional changing facilities building, boundary treatments, storage facilities and floodlighting, works to existing pitches, and creation of new hybrid and five-a-side pitches and car park - East Bierley Playing Fields, Hunsworth Lane, East Bierley.

(Estimated time of arrival at site: 11.00 a.m)

Contact Officer: Victor Grayson, Planning Services

Ward(s) affected: Birstall and Birkenshaw

7: 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.

8: Planning Applications

11 - 12

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

Please note that any members of the public who wish to speak at the meeting must register to speak by 5.00pm (for phone requests) or 11:59pm (for email requests) by no later than Monday 15th November 2021.

To pre-register, please email governance.planning@kirklees.gov.uk or phone Sheila Dykes or Richard Dunne on 01484 221000 (Extension 73896 or 74995).

Members of the public are able address the Committee virtually. Please include in your email the telephone number that you intend to use when addressing the Committee.

You will receive details on how to speak at the meeting in your acknowledgement email. Members of the public who wish to attend the meeting in person are also required to register by the deadline above.

Measures will be in place to adhere to current COVID secure rules, including social distancing requirements. This will mean that places will be limited. Please note that, in accordance with the Council's public speaking protocols at planning committee meetings, verbal representations will be limited to three minutes. An update, providing further information on applications on matters raised after the publication of the Agenda, will be added to the web Agenda prior to the meeting.

9: Planning Application - Application No: 2018/92647

13 - 62

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

Contact Officer: David Wordsworth, Planning Services

Ward(s) affected: Newsome

10: Planning Application - Application No: 2021/92528

63 - 84

Erection of retail development, associated parking, servicing areas and landscaping – land off Bankwood Way, Birstall Retail Park, Birstall.

Contact Officer: Adam Walker, Planning Services

Ward(s) affected: Birstall and Birkenshaw

11: Planning Application - Application No: 2019/94165

85 - 102

Demolition of existing mills and associated structures, erection of five commercial units, and associated yard works - Butt End Mills, Chadwick Lane, Lower Hopton, Mirfield.

Contact Officer: Adam Walker, Planning Services

Ward(s) affected: Mirfield

- 12: Planning Application - Application No: 2021/93368** 103 - 122
- Redevelopment of market with addition of mezzanine floor – Dewsbury Market, Cloth Hall Street, Dewsbury.
- Contact Officer: Adam Walker, Planning Services
- Ward(s) affected: Dewsbury East
-
- 13: Planning Application - Application No: 2021/90357** 123 - 162
- Works to existing sports facilities including erection of a clubhouse, additional changing facilities building, boundary treatments, storage facilities and floodlighting, works to existing pitches, and creation of new hybrid and five-a-side pitches and car park - East Bierley Playing Fields, Hunsworth Lane, East Bierley.
- Contact Officer: Victor Grayson, Planning Services
- Ward(s) affected: Birstall and Birkenshaw
-
- 14: Planning Application - Application No: 2021/91758** 163 - 178
- Formation of 6 space car park – Trabel House, 26-28 Cambridge Road, Huddersfield.
- Contact Officer: Stuart Howden, Planning Services
- Ward(s) affected: Newsome
-
- 15: Planning Application - Application No: 2021/92478** 179 - 190
- Erection of perimeter fencing – Royds Hall Community School, Luck Lane, Paddock.
- Contact Officer: Tom Hunt, Planning Services
- Ward(s) affected: Golcar
-

Planning Update

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

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Contact Officer: Sheila Dykes

KIRKLEES COUNCIL

STRATEGIC PLANNING COMMITTEE

Thursday 21st October 2021

Present: Councillor Steve Hall (Chair)
Councillor Donna Bellamy
Councillor Terry Lyons
Councillor Carole Pattison
Councillor Andrew Pinnock
Councillor Mohan Sokhal
Councillor Mark Thompson

Apologies: Councillor Charles Greaves

1 Membership of the Committee

Councillor Terry Lyons substituted for Councillor Charles Greaves.

2 Minutes of the Previous Meeting

The minutes of the meeting of the Committee held on 23rd September 2021 were agreed as a correct record.

3 Declaration of Interests and Lobbying

Councillors Bellamy, Pinnock, Sokhal and Thompson advised that they had been lobbied in relation to Application 2020/90640.

Councillor Pinnock advised that he had been lobbied in relation to Application 2021/92801.

Councillor Bellamy advised that she had been lobbied in relation to Application 2021/92465.

Councillor Hall advised that he had been lobbied in relation to Application 2021/91508.

4 Admission of the Public

All items on the agenda were taken in public session.

5 Public Question Time

No questions were asked.

6 Deputations/Petitions

No deputations or petitions were received.

7 Site Visit - Application No. 2021/91508

Site visit undertaken.

8 Site Visit - Application No. 2021/92801
Site visit undertaken.

9 Planning Application - Application No. 2021/91508

The Committee considered Application 2021/91508 relating to the demolition of part of the former college buildings and erection of a police station, including conversion of the Oldroyd Building and erection of new buildings comprising police custody suite, associated support services buildings, decked and surface car parking, vehicle access point, boundary treatments and landscaping at Kirklees College, Halifax Road, Dewsbury.

Under the provisions of Council Procedure Rule 37, the Committee received representations from Clare Plant and Julie Sykes (on behalf of the applicant).

RESOLVED –

That approval of the application and issue of the decision notice be delegated to the Head of Planning and Development in order to complete the list of conditions, including those contained within the report, as set out below:

1. Time limit for implementation.
2. Development carried out in accordance with the plans and specifications.
3. Construction Environmental Management Plan (including consultation with surrounding residents and details of construction access points).
4. Details of materials, including samples.
5. Large scale details of replacement windows and doors to the Oldroyd Building.
6. Details of the Halifax Road gate and new door.
7. Detailed scheme for the improved visibility at the Halifax Road/Stonefield Street junction (including the relocation of the bus stop).
8. Car park management plan.
9. Full Travel Plan.
10. Defects survey of the condition of the highway along the Halifax Road, Stonefield Street and Pyrah Street site frontages before and after development and the reinstatement of any defects as a consequence of development.
11. Electric Vehicle Charging Points
12. Submission of a Phase 2 Intrusive Site Investigation Report
13. Submission of Remediation Strategy
14. Implementation of the Remediation Strategy
15. Submission of Validation Report
16. Implement Agreed Noise Mitigation Measures
17. Limited on the combined noise from fixed plant & equipment
18. Tree protection measures during construction
19. Landscape scheme – detailed soft and hard landscaping
20. Details of boundary treatment
21. Details of the Halifax Road gate and new door
22. Bio-diversity enhancement measures in accordance with Biodiversity Plan (BEMP) to include new nesting opportunities for swift the potential for faunal boxes for other species integral to the new buildings.
23. Landscape and Ecology Management Plan (LEMP).

24. Drainage details
25. Details of overland flow routing
26. Construction phase surface water plan
27. Separate systems for the drainage of foul and surface water
28. No piped discharge of surface water until the completion of surface water drainage works.
29. Details of measures to promote carbon reduction and enhance resilience to climate change prior to the commencement of construction on site.
30. Details of the solar array.

A recorded vote was taken, in accordance with Council Procedure Rule 42(5) as follows:

For: Councillors Hall, Lyons, Pattison, Pinnock, Sokhal and Thompson
(6 votes)

Against: Councillor Bellamy (1 vote)

10 Planning Application - Application No. 2020/90640

The Committee considered Application 2020/90640 in respect of the formation of an artificial grass pitch with associated features, including eight 15m high floodlights, fencing up to 4.5m, pedestrian circulation and access route, vehicular maintenance and emergency access with Springwood Road, erection of store, grass mounds, retaining structures and landscaping works at Holmfirth High School, Heys Road, Thongsbridge, Holmfirth.

Under the provisions of Council Procedure Rule 37, the Committee received representations from Mark Young, Karen Franklin and Lauren Potts (in objection) and Rob Wilks, Daniel Hermann, Andrew Watson, Phil Keeley and Ben Stitchman (in support).

Under the provisions of Council Procedure Rule 36(1), the Committee received representations from Councillors Donald Firth and Nigel Patrick.

RESOLVED –

That approval of the application and issue of the decision notice be delegated to the Head of Planning and Development in order to complete the list of conditions, including those contained within the report, as set out below:

1. Commencement of development within 3 years
2. Development should be undertaken in accordance with the plans
3. Submission of specification details of the design of lighting columns, fencing, gates, barriers, equipment store and handrails.
4. Submission of finished floor levels and site sections.
5. Submission of a community use agreement
6. Artificial Grass Pitch management plan
7. Submission of a site specific noise management plan
8. The perimeter fencing to the pitch shall be fixed to support posts with a neoprene (or similar) isolator to fully isolate the panels from the posts to eliminate unnecessary noise

Strategic Planning Committee - 21 October 2021

9. The sports pitch hereby permitted shall not be used for any sports activities outside the agreed hours.
10. Before the development is brought into use any external artificial lighting shall be installed in accordance with the approved details.
11. Scheme detailing the dedicated facilities that will be provided for charging electric vehicles and other ultra-low emission vehicles
12. Noisy construction, demolition and site clearance operations shall not take place outside the hours of: 0800 to 1900 Monday to Friday; 0800 to 1300 on Saturdays
With no noisy activities on Sundays or Public Holidays
13. Ecological measures and/or works shall be carried out in accordance with the Ecological Appraisal
14. Submission of a "lighting design strategy for biodiversity" to show the levels of lighting to be installed on the site and to provide details of mitigative measures where any light spill onto the retained trees is anticipated
15. The development shall be carried out in accordance with the approved Landscape and Ecological Design Strategy
16. The development shall be completed in accordance with the advice and directions (recommendations) contained in the Arboricultural Impact Assessment
17. Details of all hard and soft landscaping measures, including circulation areas
18. Car Park Management Plan providing details of signing and markings to ensure customers are aware of the proposed parking provision, details of literature and advertising to be aimed at ensuring the use of the car park and details of the supervision and marshalling of the car park at peak times.
19. Proposed design and construction details for all new retaining walls adjacent to the existing highway including any modifications to the existing highway retaining wall on Springwood Road/ Heys Road
20. Submission of a Construction Environmental Management Plan
21. Details of cycle storage facilities
22. Detailed finalised design of the soakaway scheme
23. Details of the maintenance and management programme of the detailed soakaway scheme

A recorded vote was taken, in accordance with Council Procedure Rule 42(5) as follows:

For: Councillors S Hall, Lyons, Pattison, and Sokhal (4 votes)

Against: Councillors Bellamy and Thompson (2 votes)

Abstain: Councillor A Pinnock

11 **Planning Application - Application No. 2021/92945**

The Committee considered Application 2021/92945 for the demolition of existing buildings and erection of a day care facility, centre of excellence and demonstration bungalow, formation of associated parking and landscaping, alterations to pedestrian access and formation of new pedestrian access to Knowl Park from Crowlees Road at Knowl Park House, Crowlees Road, Mirfield.

RESOLVED –

That approval of the application and issue of the decision notice be delegated to the Head of Planning and Development in order to complete the list of conditions, including those contained within the report, as set out below:

Strategic Planning Committee - 21 October 2021

1. Three years to commence development.
2. Development to be carried out in accordance with the approved plans and specifications
3. New access into Knowl Park to be provided prior to old access being closed.
4. Material samples to be provided, including coursing details.
5. Works to be done in accordance with Arboricultural Method Statement
6. Boundary treatment to be as per submitted plan.
7. North facing side windows to be obscure glazed.
8. Hours of use 0600 – 2200, 7 days a week.
9. Limitation on external plant noise.
10. Kitchen extraction / odour assessment.
11. Lighting strategy to be submitted, to include signage.
12. Construction Environmental Management Plan (CEMP) to be submitted and approved.
13. Parking / highways arrangement to be implemented as per the submitted details.
14. Construction Management Plan (CMP) to be submitted and approved.
15. Surface water interceptor details to be provided.
16. Detailed surface water attenuation strategy, with management and maintenance arrangements.
17. Temporary drainage provision during the construction phase
18. Electric Vehicle Charging Point details to be provided
19. Contaminated land conditions from phase 2 onwards.
20. Coal legacy investigation conditions
21. No clearance of vegetation within the bird breeding season
22. Submission of Biodiversity Enhancement Management Plan (BEMP) to secure identified level of net gain.
23. Landscaping strategy to be provided which replaces potentially invasive species

A recorded vote was taken, in accordance with Council Procedure Rule 42(5) as follows:

For: Councillors Bellamy, S Hall, Lyons, Pattison, A Pinnock, Sokhal and Thompson (7 votes)

12 Planning Application - Application No. 2021/91172

The Committee considered Application 2021/91172 in relation to the change of use from former petrol filling station, car and van repairs/part sales and car sales pitch to hot food take-away (sui generis) at Crown Motors, Waterloo Road, Waterloo, Huddersfield.

Under the provisions of Council Procedure Rule 37, the Committee received representations from Michael Beaumont (in objection) and Nick Willock, George Brown and Simon Docherty (in support).

Under the provisions of Council Procedure Rule 36(1), the Committee received representations from Councillors Musarrat Khan and Alison Munro.

RESOLVED –

That consideration of the application be deferred to allow for further consideration/provision of further information in respect of:

- the highways issues, including the potential for closure of one of the access points, the arrangements within the forecourt for the movement of vehicles and traffic movements in and around the site
- the potential for shortening the proposed hours of use, with advice from Environmental Health Officers

A recorded vote was taken, in accordance with Council Procedure Rule 42(5) as follows:

For: Councillors Bellamy, S Hall, Lyons, Pattison, A Pinnock, Sokhal and Thompson (7 votes)

13 Planning Application - Application No. 2021/92465

The Committee considered Application 2021/92465 for the change of use from agricultural land to private dog exercise facility at land south of Chain Road, Slaithwaite, Huddersfield.

Under the provisions of Council Procedure Rule 37, the Committee received representations from Alan Senior (in support).

RESOLVED –

That approval of the application and issue of the decision notice be delegated to the Head of Planning and Development in order to complete the list of conditions, including those contained within the report, as set out below:

1. Hours of operation from 07:00am - 22:00pm Monday - Sundays including Bank Holidays.
2. No external lighting at the site.
3. Replacement of modern pressure treated fencing to the front of the site (within 3 months).
4. Ecological enhancements to be provided within 3 months as recommended within Ecological Impact Assessment (April 2021) undertaken by MAB Environment & Ecology Ltd.
5. A scheme for the disposal of animal waste shall be submitted to the council for agreement

A recorded vote was taken, in accordance with Council Procedure Rule 42(5) as follows:

For: Councillors Bellamy, S Hall, Lyons, Pattison, A Pinnock, Sokhal and Thompson (7 votes)

14 Position Statement - Application No. 2021/92801

The Committee received a position statement in respect of Application 2021/92801 relating to the erection of 284 dwellings with associated works and access from Hunsworth Lane and Kilroyd Drive on land at Merchant Fields Farm, off Hunsworth Lane, Cleckheaton.

A representative of the applicant was in attendance to respond to questions from Members.

The contents of the position statement were 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 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 statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

National Policy/ Guidelines

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th July 2021, the Planning Practice Guidance Suite (PPGS) first 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 55 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.

Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 18-Nov-2021

Subject: Planning Application 2018/92647 Hybrid Planning Application for mixed use development - retail/office and 239 residential units (Use Classes C3/A1/A3/B1a). Full Planning permission for the partial demolition of the former Kirklees College, erection of a food retail store with residential above and erection of two mixed use (retail/residential) buildings, alterations to convert grade ii* listed building to offices and creation of vehicular access from Portland Street, New North Road and Trinity Street. Outline application for erection of four buildings mixed use (residential/office) (Listed Building within a Conservation Area) former Kirklees College, New North Road, Huddersfield, HD1 5NN

APPLICANT

Trinity One LLP

DATE VALID

15-Aug-2018

TARGET DATE

14-Nov-2018

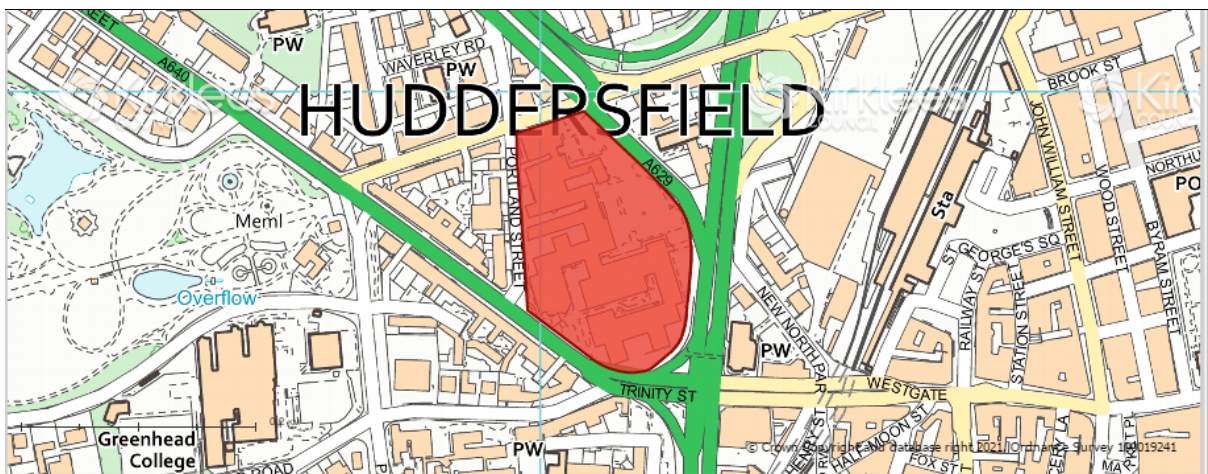
EXTENSION EXPIRY DATE

27-Feb-2021

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: Newsome

Ward Councillors consulted: Yes (referred to in the report)

Public or private: Public

RECOMMENDATION:

1) Refuse Planning Permission for the following reason:

In the absence of a completed Section 106 agreement the development fails to secure the conversion of the listed buildings (heritage buildings 1,2 & 3 as shown on the masterplan) and therefore provides insufficient public benefits to outweigh the less than substantial harm caused by the scheme. The inability to secure the re-use of the Grade II* heritage buildings would fail to comply with Policies LP35 of the Kirklees Local Plan as well as Paragraph s200 202 and Chapters 2, 4, 7 and 16 of the National Planning Policy Framework.

2). Confirmation that officers will issue an Urgent Works Notice (UWN) as and when required to preserve un-occupied listed buildings (Buildings 1,2, and 3 on the masterplan) under Section 54 of the Planning (listed Buildings and Conservation Areas) Act 1990, to require works listed a)-e) in paragraph 10.34 of this report to be completed and issued on the landowner.

1.0 INTRODUCTION:

1.1 This is a hybrid planning application for a mixed-use residential and retail development, incorporating 229 apartments at Castlegate, on the former Kirklees College site situated to the North of Huddersfield Town Centre. This major application is brought to Strategic Planning Committee for determination given the size of the site and the quantum of development proposed, specifically due to the number of residential units and the amount of retail floorspace proposed.

1.2 Kirklees College vacated the site in 2013 and relocated to new purpose-built accommodation. The site has since been marketed for redevelopment, during which time the range of buildings have declined considerably and have been subject to decay. This has a negative impact in terms of visual degradation and the image of Huddersfield when entering the town.

1.3 The application was originally presented to the Strategic Planning Committee on 24th February 2021 with a recommendation as follows:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report and to secure a S106 agreement to cover the following matters:

1. Arrangements for the future maintenance and management of drainage infrastructure within the site.

2. Phasing of the development, including urgent work to the listed building (Building 1,2 & 3) within the first phase. 3. Overage clause in relation to the costs of the conversion of the listed (Building 1,2 &3).

In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Planning and Development shall consider whether 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 Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

1.4 The committee resolved as follows:

(1) That, subject to a review of the design of the food retail store and the imposition of a condition to require the use of natural stone to all elevations of this building, approval of the application and issue of the decision notice be delegated to the Head of Planning and Development in order to complete the list of conditions, including those contained within the Committee report and the update.

1.5 Following the committee decision, the applicants worked with officers of the council to review the design of the retail food-store on the southern part of the site. The amendments to the food-store (building 6 on the masterplan) are detailed in paragraphs 3.6

1.6 In terms of the obligations that were required to be agreed through a Section 106 Agreement, an update on part 1) for the arrangements for the future maintenance and management of drainage infrastructure within the site is provided in paragraphs 10.153 An update on part 2) of the resolution requiring phasing of the development is detailed in paragraph 10.134 -10.140

1.7 The applicants have advised that whilst the proposed scheme has not changed in terms of quantum and uses, the conversion of the heritage buildings 1,2 and 3 would not be secured within the S106 phasing plan. Therefore, works to the heritage buildings controlled by the granting of planning permission would be limited to the programme of urgent works to the heritage buildings.

1.8 The applicants' comments in supporting letter dated 27th October 2021 and diagram are included in the Appendix to this report and their content may be considered to be material considerations in the determination of this scheme. The appraisal section therefore addresses the applicants' comments and advises members on these issues. However, the weight to apply to these matters is ultimately for the Strategic Committee as the decision maker.

1.9 In considering the planning merits of the scheme and any material planning considerations the committee are advised to be mindful of the statutory duty of sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

2.0 SITE AND SURROUNDINGS

- 2.1 The site is located adjacent to the west of Huddersfield Town Centre ring road (Castlegate A62). The site is elliptical in shape, extending to approximately 2.46 hectares (6.09 acres). It is bounded on all sides by the extensive road networks comprising Fitzwilliam Street, Portland Street, New North Road and Trinity Street. The site comprises the former Kirklees College Campus and includes a range of buildings that were built as tower blocks in the 1970s. Within the centre of the site is the Grade II* listed former Huddersfield Infirmary Building, the Grade II Listed King Edward VII Statue and associated car parking space. The site is a Mixed-Use Allocation within the Kirklees Local Plan under ref MXS4 for housing, retail and/or leisure beyond that already permitted under planning permission 2015/93827 for the erection of a food retail store on the southern part of the site.
- 2.2 The site has 3 distinct character zones as identified within the applicants Design & Access Statement (dated 31/07/2020):
1. Upper site– The 1933 infirmary extension and modern corner building.
 2. Historic Core – The listed original infirmary building and statue of King Edward VII.
 3. College Campus– 1970s medium rise town blocks.

The wider context of the site can be summarised as mixed commercial uses in a predominantly residential area. The site is within the town centre boundary as shown in the Local Plan, which this site extends to the east. It is primarily residential to the south and north and Greenhead Park lies to the west, which provides a green island of open space for leisure and recreation purposes.

- 2.3 It is very accessible to Huddersfield Train Station situated within walking distance from the site (approximately 350m to the east). Huddersfield Bus Station is a comparable distance away to the southeast, both of which are accessible via the existing subway crossing the A62. The A640 and A629 both head northwest to junctions 23 and 24 respectively of the M62.
- 2.4 The northern part of site is within the Edgerton Conservation Area.
- 2.5 From the site existing views are available to the surrounding hill lines. In particular, key views exist of Castle Hill to the south and Cowcliffe Ridge to the north. The applicants state that the proposal has been informed by the 2016 Castle Hills Setting Study, in particular respecting the views of importance. Although officers accept that the layout has other key influences and that its relevance is diminished through distance.

3.0 PROPOSAL:

3.1 This is a hybrid planning application comprising the following:

- A full application for a retail food store on the southern part of the site (Building 6 on the masterplan) and the conversion of the principal listed building and its wings in the central historical core (Buildings 1,2 & 3 of the masterplan).
- An outline permission for the majority of the proposed residential development on the northern or upper part of the site. For this part of the site, only the matters of access and scale are sought for approval. Matters of appearance, layout and landscaping would be applied for at reserved matters stage. The number of units proposed within the new residential blocks total 197 apartments of which 32 units would be within the conversion of the wings of the principle listed building. As part of negotiations with the applicant team, the massing and height of the residential blocks was reduced from a size that would accommodate 207 to accommodate a minimum of 197 units, reducing the total numbers on the site from 239 to 229 apartments. As part of the outline application a parameter plans to fix the height and therefore the massing of the blocks has been included in the application.

3.2 When the application was received on 13th August 2018, the proposal consisted of the following:

- Residential Dwellings – 187 - 14270.9 sqm
- Use class A1 Retail and Shops - 2823.9 sqm
- Use class B1 Offices - 4139.3 sqm
- Use class C1 (Hotel) - 102 bedrooms 3759.7 sqm

3.3 However, crucially the 2 existing wings that formed part of the principle listed building on site were proposed to be demolished. This was not considered to be an appropriate design solution in heritage impact terms. Through negotiations and discussions with Council officers, Historic England, and several variations of the development form, aimed at balancing viability and the impacts upon heritage assets, the applicants arrived at the current scheme.

3.4 The quantum of development now proposed consists of the following elements:

- Residential Dwellings - 229 (Use Class C1) 13690.1 sqm (Comprising 197 new build units & 32 from converted wings of listed building)
- Use class B1 Offices – (Use Class B1a) 1001.9 sqm
- Food Retail (Use Class A1) - 1997.9 sqm

3.5 The scale and form of the proposal would be 4 and 5 storeys (above ground) for the residential apartments on the northern part of the site (Buildings 4 and 5 the illustrative masterplan) and just under 7m in height building on the southern part of the site that would contain (Building 6 on the illustrative masterplan) the retail provision for the overall development. A single storey discount food retailer is proposed, and the applicants have confirmed this is intended for the Lidl retail operator. The site layout on this part of the site is in general conformity with the previously approved layout in 2016 (2015/62/93827/W), facing west towards the main access to Trinity Street.

- 3.6 Since the application was presented to Strategic Planning Committee on 24th February 2021, the applicant team has worked with officers of the council to review the design of the retail food-store on the southern part of the site. The amendments to the food-store (Building 6 on the masterplan) agreed by officers and applicant team are as follows:
- Cladding of the building supermarket in natural stone to all 4 elevations (conditions will require sample panels).
 - Detailing in all 4 elevations to reflect the fenestration pattern of listed buildings 2 and 3, with recessed stone panels within the piers.
 - Crown roof added and to be clad in blue slates. Should plant be required it can sit behind the roof;
 - Redesign of the entrance canopy to enhance buildings individuality and character- recommended introduction of a stone pillar portico;
 - Increased width of pillars.
 - It is noted that not all Lidl -stores have adverts (other than the logo on the entrance) and it is preferable if this store would do the same as adverts can detract rather than enhance appearance;
 - Enhancement of Landscaping /Tree planting scheme across the parcel of the site, particularly in front of the southern wing of the heritage buildings (Building 2) and along the vehicular entrance to provide boulevard entrance/ vista and embankments to the ring road.
- 3.7 The applicants submitted revised elevations plan and revised landscaping plans (reference: (DR-A-8101-S3-P7 & R-2377-1C landscape) are considered to be acceptable by officers. However, the committee is the relevant decision maker and can consider the amended plans described.

Listed Building Consent

- 3.8 Listed Building Consent (2018/92687) is also sought for the alterations of the Grade II* listed building and the demolition of other curtilage listed buildings (within a Conservation Area). These matters are assessed within the Heritage part of the report.
- 3.9 If members resolve to grant approval for the planning application, officers would then grant the listed building application which, under the scheme of delegation, does not require committee authorisation.

Access

- 3.10 In terms of the full planning application part of the site, vehicular access is proposed off Portland Street via four access points.
- The first would serve the retail development of the proposed food store (building 6 of Masterplan) for customer parking;

- The second access would be for servicing of the retail store only and provides a direct route to the rear of the retail store for delivery vehicles;
- The third access would serve the rear entrance and wings of the primary listed building (buildings 1 2& 3) and the rear of the Primary listed building. In this area a small amount of parking is proposed.
- The fourth vehicular access would serve the residential development to the north of the site that is in outline form and also the parking area in front of the listed building (building 1).

3.11 The existing vehicular access from the East on New North Road would be closed, details of which are recommended to be secured by condition.

Demolition

3.12 The applicants propose to demolish all of the existing buildings on site other than the former Infirmary buildings and its wings (Buildings 1, 2 & 3 as shown on the Masterplan). A demolition plan is included with the revised submission received in August 2020.

3.13 The hybrid application has been supplemented by the following documents:

- Planning and Retail Statement.
- Design and Access Statement.
- Phase 1 Desktop & Geo Environmental Assessment.
- Flood Risk, Foul and Drainage Assessment.
- Transport Assessment
- Framework Travel Plan.
- Ecological Assessment.
- Bat survey
- Heritage Assessment.
- Noise and Vibration Assessment.
- Arboricultural Assessment.
- Air Quality Impact Assessment; and
- Coal Mining Risk Assessment

3.14 An Environmental Impact Assessment (EIA) screening opinion request was submitted, and a screening opinion processed when the pre-application submission was received. This scheme involved the high-rise residential block above the food retail store and involved the demolition of the two wings of the listed buildings. The impacts of the proposal were significantly greater than the revised scheme now under consideration. The opinion concluded that the development is not EIA development.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 The following applications relate to this site:

2015/93827 - The southern part of the site Full planning permission for demolition of existing buildings a food retail unit (Use Class A1) and associated access and landscaping. Council records demonstrate that the attached conditions were not discharged therefore this permission has expired.

- 4.2 2018/92687 - Listed Building Consent accompanying this planning application.

2017/20041 - Pre-application. It should be noted that the scheme at pre-application stage was significantly different due to the inclusion of a building of 11 storeys in height, which incorporated the retail food store at ground level and primarily residential units above, on the southern element of the site.

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

- 5.1 2017/20041 - Pre-application submission advice was received in 2017. The scheme has been the subject of formal advice was provided in a pre-application submission.
- 5.2 The current application was received in 2018. The scheme involved the demolition of the two wings of the primary Grade II* Listed Building and the construction of an 11-storey block comprising retail at ground floor and residential units above. Historic England and heritage consultees objected to the demolition of the wings and had concerns with the scale of the building on the southern part of the site. Negotiations resulted in a revised scheme being submitted in August 2020.
- 5.3 Since the planning application was presented to planning committee on 24th February 2021 extensive negotiations have taken place between the applicant and officers regarding the phasing of the development and content of the Section 106 agreement. These discussions focussed upon the content and timing of the Programme of Urgent Works to the heritage buildings and the mechanism for securing their conversion. Negotiations reached draft S106 Agreement stage but have been unable to reach full agreement. The design of the food-store proposed on the southern part of the site (building 6 on the masterplan) has subsequently been revised to a stage that the heritage and planning officers are satisfied with.

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 statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

Kirklees Local Plan (2019):

- 6.2 The application site is allocated for a mixed-use site: Land North of Trinity Street, Huddersfield (Site Ref: MXS4) in the Kirklees Local Plan. The allocation defines a mixed use - housing, employment, and retail (additional retail and/or leisure beyond that already permitted (under application 2015/93827 for the erection of a food retail store) would be subject to policy LP13 of the KLP). It gives a gross and net site area of 2.44 Ha with an indicative housing capacity of 45 dwellings and an indicative employment area of 2103 sqm. It lists the following constraints:

- Air quality issues
- Potentially contaminated land
- Odour source near site
- Noise source near site

- Part/all of the site is within a High Risk Coal Referral Area
- Grade II* listed former Huddersfield Infirmary building is within the site
- Grade II listed statue within the site
- Part of the site is within a Conservation Area

6.3 Relevant Local Plan policies are:

LP1 – Presumption in favour of sustainable development
 LP2 – Place shaping
 LP3 – Location of new development
 LP4 – Providing infrastructure
 LP5 – Masterplanning sites
 LP7 – Efficient and effective use of land and buildings
 LP9 – Supporting skilled and flexible communities and workforce
 LP11 – Housing mix and affordable housing
 LP20 – Sustainable travel
 LP21 – Highways and access
 LP22 – Parking
 LP23 – Core walking and cycling network
 LP24 – Design
 LP26 – Renewable and low carbon energy
 LP27 – Flood risk
 LP28 – Drainage
 LP30 – Biodiversity and geodiversity
 LP32 – Landscape
 LP33 – Trees
 LP34 – Conserving and enhancing the water environment
 LP35 – Historic Environment
 LP38 – Minerals safeguarding
 LP47 – Healthy, active, and safe lifestyles
 LP49 – Educational and health care needs
 LP67 - Mixed Use Allocations

Supplementary Planning Guidance / Documents:

6.4 Relevant guidance and documents:

- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Kirklees Housing Strategy (2018)
- Kirklees Strategic Housing Market Assessment (2016)
- Kirklees Interim Affordable Housing Policy (2020)
- Kirklees Joint Health and Wellbeing Strategy and Kirklees Health and Wellbeing Plan (2018)
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
- Negotiating Financial Contributions for Transport Improvements (2007)
- Providing for Education Needs Generated by New Housing (2012)
- Highway Design Guide (2019)
- Waste Management Design Guide for New Developments (2020)
- Green Street Principles (2017)
- Kirklees Viability Guidance Note (2020)
- Huddersfield Blueprint (2019)
- Planning Applications Climate Change Guidance (2021)
- Housebuilders Design Guide SPD (2021)
- Open Space SPD (2021)
- Biodiversity Net Gain Technical Advice Note (2021)

Climate change:

- 6.5 The council approved Climate Emergency measures at its meeting of full Council on 16/01/2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.
- 6.6 On 12/11/2019 the council adopted a target for achieving “net zero” carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

National Planning Policy and Guidance (National Planning Policy Framework):

- 6.7 The National Planning Policy Framework (2021) seeks to secure positive growth in a way that effectively balances economic, environmental, and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal. Relevant paragraphs/chapters are:

Chapter 2 - Achieving sustainable development
Chapter 4 – Decision-making
Chapter 5 – Delivering a sufficient supply of homes
Chapter 8 – Promoting healthy and safe communities
Chapter 9 – Promoting sustainable transport
Chapter 11 – Making effective use of land
Chapter 12 – Achieving well-designed places
Chapter 14 – Meeting the Challenge of Climate Change, Flooding and Coastal Change
Chapter 15 – Conserving and enhancing the natural environment
Chapter 16 – Conserving and enhancing the historic environment
Chapter 17 – Facilitating the sustainable use of materials.

- 6.8 Since March 2014 Planning Practice Guidance for England has been published online.
- 6.9 Relevant national guidance and documents:
- National Design Guide (2019)
 - Technical housing standards – nationally described space standard (2015, updated 2016)

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was validated on 15/08/18 and was advertised by site notices, press advert and 84 neighbour notification letters. As a result, 3 letters of representation were received. In August 2020, amended plans were received and therefore, another round of publicity was undertaken. The amended plans were advertised by site notices, press advert and 84 neighbour notification letters. 3 interested parties and 2 letters of representation were received, one of which was from Huddersfield Civic Society which is included in the heritage section of the appraisal.

7.2 A summary of the comments received is provided below.

7.3 2018 Original scheme:

- Area is of significant importance to Huddersfield
- proposed new building elevations do not in any way respond to the 'Infirmery' the one listed building the developers are proposing to leave standing.
- the site does need to be developed but for such an important and visible area of Huddersfield an increased effort is required from this developer in respect of his proposed facade designs
- Huddersfield Civic Society accepts the uses but raises concern design
- profound impact the setting of the listed Infirmery building, which, as a Grade 2* building is considered of regional importance
- mass, articulation, and fenestration, particularly those adjacent to the Infirmery, fail to reflect the architectural quality of the listed building and the town's distinctive architectural quality
- wing designed by prominent local architect, in 1874 and the wing containing the water tower are both distinctive and architecturally important features
- no approval for new buildings should be given until there is substantial and convincing evidence that these structures cannot be successfully re-used.
- level of metal cladding rather than the use of stone, particularly in relation to buildings along Portland Street and the adjacent Conservation area
- those buildings which are retained are converted and suitably restored as part of an agreed phased development and are not neglected should part(s) of the site be disposed of.
- In June 2016 the planning committee stipulated that "natural stone" should be used on the elevations of the permitted supermarket application.
- The current application for block 8 proposes extensive use of "sandstone faced rain-screen cladding". The acceptability of this material is dependent upon its quality

- If it replicates the local stone used on the recent University Oastler building then that would be satisfactory; any other material may not complement the adjacent Grade II* listed building or Conservation area
- West elevations of buildings 2 and 3 have too much metal cladding but a greater proportion of sandstone should be used on the side facing Portland Street.
- Phasing of the development: Planning Authority should condition the simultaneous development of all 4 buildings.

7.4 2020 - Revised Scheme:

- How happy I am to hear this and sincerely hope this application is successful.
- After 5/6 years and numerous callouts of the emergency services – both Police and Fire
- Site is a complete eyesore for visitors to this historic town putting Huddersfield in a very poor light indeed.
- The property is being used by many of the homeless community as a public convenience – and this I see on a daily basis
- Huddersfield Civic Society- welcomes retention and conversion of those buildings marked Buildings 1,2 and 3 on the submitted plan
- Notes the applicant states, this drawing shows an indicative design only
- Should a detailed application on this part of the site be submitted it is essential that attention is paid to the relationship with buildings within the adjacent Conservation Area and particularly those along Portland Street
- strong objection to the elevational details of the proposed supermarket and related car parking and would appear to achieve even lower standards of design than existing college buildings
- contrary to objectives of the Council in promoting good design, on a site which leads to the Station Gateway, where a fundamental ambition within the Council's Blueprint is to enhance the heritage and commercial attractions of the town
- greater focus on materials, elevational detail, built form and landscaping, incorporating greenspace with tree planting.
- introduction of the proposed supermarket, into an existing application, to be wholly inappropriate given no such element was included in the original application.
- By accepting the changes as a revision the opportunity for members of the public to submit comments has been reduced from the time frame allowed

Ward Councillor comments

- 7.5 Ward Councillors were emailed on 12.01.2021. Any comments received will be reported in the agenda update.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

KC Highways DM - No objections subject to conditions.

Lead Local Flood Authority (LLFA) - No objections subject to conditions.

Historic England – **Summary:** the principle of redeveloping this site is supported. Whilst the welcome some changes to the previous scheme, the loss of historic buildings – block G in particular -and the increased density of the proposed development on the north part of the site would be harmful to the character and appearance of conservation area and the setting of surrounding listed buildings, and consequently we have concerns on heritage grounds. Whilst we do not object to the proposal, we ask that your authority is satisfied that this is the minimum amount of development necessary to make the proposal viable and that can only be delivered in this particular way.

When making this judgement, we ask you to consider the ‘special regard’ which must be paid to the desirability of preserving listed buildings or their settings and preserving or enhancing the character or appearance of conservation areas. We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 127, 130, 192-196 and 200 of the NPPF. Comments in full in paragraph 10.68-10.79

8.2 Non-statutory:

KC Conservation & Design – Comments

The clearance and redevelopment of the former college buildings is acknowledged as a positive. However, the apparent outcome of the current proposal would be the demolition of substantial parts of the grade-II* listed building and continuing uncertainty of the future for the retained former infirmary buildings and the northern part of the site. The public benefits of the proposed development have, therefore, not been clearly demonstrated sufficient to address the requirements of NPPF Paragraph 202 or Local Plan Policy LP35.

Advise that committee Confirm that officers can issue an Urgent Works Notice (UWN) as and when required to preserve un-occupied listed buildings (Buildings 1,2, and 3 on the masterplan) under Section 54 of the Planning (listed Buildings and Conservation Areas) Act 1990, to require works listed a)-e) in paragraph 10.34 of this report to be completed and issued on the landowner.

West Yorkshire Archaeology Advisory Service (WYAAS): Parts of the hospital require archaeological and architectural recording prior to the change of use. In particular the entrance block which housed principal accommodation for senior staff and medical facilities.

KC Ecology - No objection provided the following pre-commencement conditions are included, or ideally this information could be provided prior to determination.

KC Trees - The applicants have attempted to retain existing trees on site. No objections subject to conditions.

Georgian Group - Object. Welcomes the repair and reuse of the original c1831 former infirmary building but object to the demolition of a number of the later nineteenth and early twentieth century former hospital buildings.

Huddersfield Civic Society - Object. Welcomes the Retention & Conversion of buildings 1, 2 & 3. Strong objection to the elevational details of the proposed supermarket and related car parking supermarket would appear to achieve even lower standards of design, as very prominent site. Severely question Council's commitment to its own Blueprint and its ability to positively promote high standards of architecture and design.

Yorkshire Water - No objections subject to conditions.

KC Strategic Housing - No objection. Based on a development of 239 residential units, 48 units are sought from this development. for 1 and 2 bed dwellings. The applicant proposes studio, 1, 2 and 3 bedroom apartments housing, therefore a mixture of these would be suitable for this development.

Vacant building credit: Government guidance and policy in planning practice guidance and the National Planning Policy Framework, notes the following on vacant building credit (VBC):

VBC is applicable resulting on the provision of no affordable housing units in this scheme.

KC Education - The scheme generates a total requirement of £291,469 towards primary school provision (Spring Grove J I & N School). No secondary education is required by this development.

KC Strategic Waste - No objections. No closed landfill sites within 500m of HD1 5NN, nor does our historic sieve maps.

* According to the Environment Agency search website, there are no Active landfills within a 500m radius.

KC Business Team - The business team recognises the significant investment brought into developing this Huddersfield Gateway site and in bringing a listed building back into use. Therefore, support the application on the basis of the significant jobs to be created and would wish to also explore the opportunity for local plant, material, and labour during the construction phase.

9.0 MAIN ISSUES

- Principle of development
- Heritage Issues and Restoration of the Listed Building
- Residential amenity & Unit Size
- Ecology and trees
- Planning obligations and financial viability
- Phasing of the development
- Housing issues
- Highway issues
- Drainage issues
- Climate Change
- Representations

10.0 APPRAISAL

Principle of development

- 10.1 Planning law requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
- 10.2 The Local Plan sets out a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum.
- 10.3 The site is allocated as a mixed-use site - Land North of Trinity Street, Huddersfield (Site Ref: MXS4) in the Kirklees Local Plan which was adopted in February 2019 as set out above. In planning policy terms, the site allocation within the Local Plan can be given full weight.
- 10.4 The southern section of the site previously benefitted from an outline planning permission (Ref: 2015/93827) for the demolition of existing buildings and erection of a food retail unit (A1) with associated site works, parking, access, and landscaping which was approved with conditions by the Council on the 27th June 2016. This consent granted 2,470 sq m (net sales area of 1424 sq m) of Use Class A1 retail floorspace within a single unit but this permission has now expired. The committee may consider this to be a material planning consideration. This previous retail scheme did not include the comprehensive redevelopment of the site or a programme of urgent works to the to the heritage buildings whereas the applicants scheme does, all be it without securing the conversion of the heritage buildings.
- 10.5 Members may recall Pre-application 2017/20041 that was presented to the Strategic Committee on 5th October 2017 to engage with members on the potential redevelopment of this site and obtain their views on the scale, form, and uses proposed. Committee comments were generally supportive of its redevelopment and the consequent regeneration benefits. However, they did wish to see the scheme with its scale respecting the existing listed buildings and the Edgerton Road Conservation Area. It should be noted that the scheme at pre-application stage was significantly different due to the inclusion of a building of 11 storeys in height, which incorporated the retail food store at ground level and primarily residential units above, on the southern element of the site.

- 10.6 When this application was originally received in 2018, the UDP formed the development plan for Kirklees and the site was located outside of the Town Centre boundary. Consequently, at that time the applicants undertook a Sequential Test and Impact Test in relation to the proposed retail as required for sites outside of Town Centres. However, the adoption of the Local Plan included this site as being within Huddersfield Town Centre where retail and office developments are acceptable in principle. Furthermore, given that permission has previously been granted for 2,470 sq m of retail floorspace on the site and notwithstanding detailed assessment of the scheme (currently 2,824 sq m A1 retail), the principle of development on the southern part of the site which proposes retail development is therefore considered to be acceptable.
- 10.7 Turning to the proposed residential development on the northern part of the site, incorporating the residential development in outline form (buildings 4 & 5 shown on the masterplan) on the upper site and the historic core containing the listed buildings (buildings 1, 2 & 3 shown on the masterplan), consideration needs to be given to the material considerations of the potential benefits that would accrue in terms of the partial regeneration of a key brownfield site and a significant level of investment and employment generation. These matters can be weighed by the decision maker against any identified harm to heritage assets from the demolition and construction of the buildings and the scale and massing required to accommodate 229 residential units.
- 10.8 It is recognised that there are benefits from providing a significant number of residential units into the Town Centre. Policies LP13, LP15 and LP17 of the KLP support town centres as places where people live. Policy LP15 of the KLP refers to residential uses within Town Centres and gives criteria to assess proposals against. This scheme is compliant with the criteria in terms of the residential unit's proposed in the wings of the primary listed building and further assessment will be undertaken at reserved matters stage when details are submitted for the northern element of the scheme that is currently in outline form. Policy LP17 of the KLP which refers to the Huddersfield Town Centre, identifies the centre to be the principal focus for high quality comparison retail goods within the district, supported by a range of leisure, tourism, office (including high quality grade A office space), and other main town centres uses. The opportunity that be secured by the restoration of the Grade 2* listed building for high quality office accommodation in a highly accessible location should be recognised.
- 10.9 It is also recognised that in the applicant's planning statement, they have justified the development in terms of its sustainability criteria and particularly the economic benefits of the scheme as required in the NPPF. *The retail food store element associated with the extant permission was identified as providing up to 50 jobs. Employment opportunities will also be generated during the construction phase and where appropriate, local labour would be given the opportunity to be involved.* Employment opportunities would also be provided by the office unit from the converted Listed Building (Building 1 on the masterplan).

- 10.10 Furthermore, in support of the application the applicant has provided comments in supporting letter dated 27th October 2021 and diagram which are included within the Appendix to this report which can be considered by the Committee as material considerations. Officers support the potential benefits to the town centre and the regeneration of the key site to enhance the visual appearance, environment, and economy particularly in this part of the town centre.
- 10.11 The site is identified as one of two key development site opportunities to support capacity for growth within the town centre over the plan period 2013-2031.
- 10.12 The Kirklees Economic Strategy 2014-2020 set a priority to revitalise Huddersfield Town Centre with more cultural, leisure and independent retail attractions, with the aim of increasing pedestrian footfall and the vitality of the town centre. The development can assist in and will play a key role in achieving these aims. Taking into consideration the aforementioned local policies and the broad aims of revitalising town centres as a key focus for investment from national policy in the NPPF, the principle of development on the site is acceptable. However, the ability of the scheme to recognise substantial public benefit has been reduced given that the conversion of the heritage buildings would not be secured within the phasing plan of the S106 Agreement.

Quantum and density

- 10.13 To ensure efficient use of land, Local Plan Policy LP7 requires developments to achieve a net density of at least 35 dwellings per hectare, where appropriate, and having regard to the character of the area and the design of the scheme. Lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or to secure particular house types to meet local housing needs. Kirklees has a finite supply of land for the delivery of the 31,140 new homes required during the Local Plan period, and there is a need to ensure that allocated sites are efficiently used (having regard to all relevant planning considerations) to ensure the borough's housing delivery targets are met.
- 10.14 The number of apartment units proposed is 229 which is 197 on the northern part of the site and 32 within the wings of the primary listed building in the Historic Core. The indicative number of dwellings within the site allocation box of the Local Plan is 45 but this also includes an employment floorspace of 2,103 sq m. The density of the development as a whole would be 93 dwellings per Ha. Officers acknowledge that the challenges of the site mean that the northern element that comes forward at reserved matters would be a high-density format. However, this is a town centre where some scale can be accommodated if sensitively designed.

Heritage Issues and Restoration of the Listed Building

- 10.15 The former Huddersfield Royal Infirmary site occupies a prominent position on the edge of Huddersfield town centre, within the setting of a large number of listed buildings and affecting three conservation areas. The original infirmary (F1) is listed Grade II* and, together with the Grade II listed statue of Edward VII, provides an impressive centrepiece for a complex of structures which help to tell the story of the development of healthcare and the civic character of Huddersfield. These buildings are considered to form a priority site that is included in the national Heritage at Risk Register.

- 10.16 The three conservation areas are Greenhead Park, Town Centre, and Springwood Conservation Areas. The setting of Greenhead Park Conservation Area comprises residential development to the north and west of the site. To the east sits the Huddersfield Town Centre Conservation Area and includes St Georges Square and the railway station. Springwood Conservation Area includes properties on the western side of trinity street and approximately the northern half of the site.
- 10.17 Several listed buildings are located at close proximity to the site and therefore the proposals also have the potential to affect their setting.
- 10.18 When determining planning applications that impact on designated heritage assets local planning authorities have a statutory duty under sections 16(2), 66(1) and 72(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.
- 10.19 Paragraph 197 of the NPPF states: “In determining applications, local planning authorities should take account of:
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - c) the desirability of new development making a positive contribution to local character and distinctiveness.”
- 10.20 Paragraph 199 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 10.21 Paragraph 201 of the NPPF states that: “Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:
- a) the nature of the heritage asset prevents all reasonable uses of the site; and
 - b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
 - c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
 - d) the harm or loss is outweighed by the benefit of bringing the site back into use.

10.22 Part 1 of Policy LP35 of the Kirklees Local Plan states that development proposals affecting a designated heritage asset should preserve or enhance the significance of the asset and it mirrors paragraph 201 of the NPPF in terms of the assessment for proposals that would result in substantial harm or loss of a designated heritage asset. The policy sets out that in cases likely to result in substantial harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring substantial public benefits that clearly outweigh the harm, or all of the criteria listed a to d above are met.

10.23 A Heritage Statement has been prepared (by Woodhall Planning & Conservation) to support the application. The assessment identifies the heritage assets of the site and the potential impact upon the conservation areas and their setting. It appraises the historical significance of the blocks that are proposed to be demolished.

Re-use of Listed Buildings (Building 1,2&3 on Masterplan)

10.24 The proposal includes the conversion and restoration of the historic Grade II* listed infirmary building (building 1 on masterplan) along with the two rear wings to the west (buildings 2 and 3 on masterplan) into high quality residential and office accommodation. However, the applicants have confirmed that the conversion will not be secured through a phasing agreement within the Section 106 Agreement, which reduces the significant public benefits that are to be secured through this scheme. The applicants have submitted information in relation to the public benefits which they consider will still be achieved which is in the information and diagram within the Appendix of this report.

KC Conservation & Design Team

10.25 KC Heritage Officers have provided revised comments in light of the applicants' clarification of their position:

10.26 *Previous comments on the proposed LBC and Hybrid Planning application were provided by the Conservation and Design Team dated 09 October 2020 and 10 February 2021. The comments were submitted in relation to the proposals for the planning application and listed building consent (under the same references)*

10.27 *The principle of redevelopment of the site was supported in previous comments, despite the evident 'harm' to the listed building which would result from the extensive demolition of the former infirmary buildings. The heritage impact of the proposal was supported on the understanding that the overall mixed-use development would facilitate the restoration and conversion of the 1831 infirmary building and its rear wings.*

10.28 *The development proposal evolved through the application process but indicated that it would retain the most significant part of the C19th, grade-II* listed infirmary, identified as Buildings F1, F2, F3 in the applicant's Heritage Statement (dated August 2020, Figure 1, page 6). However, prominent parts of the listed building, identified as buildings G, H1 and H2 in the Heritage Statement (dated August 2020, Figure 1, page 6) would be demolished to accommodate the new residential apartments at the northern end of the site. The late-C20th college buildings would also be cleared to enable the development of the proposed food-store at the southern end.*

The current position.

- 10.29 *It is now understood that the applicants will not be progressing the development beyond the clearance of the college and former infirmary buildings (defined as buildings G, H1, H2 and J) to create a cleared development site, with disposal of the southern part of the site to accommodate the food retail site component. Following disposal of the southern part of the site to facilitate the food retail use, the applicants' intention is to market the cleared site and remaining infirmary buildings for development by others. Consequently, the proposed development does not provide certainty regarding either the: preservation of the retained grade-II* listed building (Buildings F1, F2, F3), or the timely delivery of the residential development to a high architectural standard which would complement the character and appearance of the conservation area. Achievement of objectives 5a and 5b above is necessary to present the "clear and convincing justification" required by NPPF paragraph 200 to balance the extent of harm to the designated heritage assets.*
- 10.30 *The identified adverse heritage impacts must be demonstrably outweighed by the clear public benefits secured by the development. In particular, the satisfactory restoration and reuse of the retained listed building and the townscape of the conservation area must be unambiguously demonstrated given the proposed loss of historic fabric and the high density of the residential development. Current proposal only presents minor works to the listed building, and the scale, mass, and detailed design of the apartment complex at the northern end of the site remains illustrative in the current proposal. The impact on the character of the conservation area and the setting of adjacent listed buildings, is also unknown at this stage and remains a potential concern given that there is no design commitment for the proposed residential component of the overall development.*
- 10.31 *Historic England retains its concern that the proposal, "would result in harm to the grade II* listed Infirmary building" and "likely harm to the Greenhead Park Conservation Area". However, the national heritage advisors concluded that the degree of harm caused by the development would be defined as 'less than substantial' and thus the adverse impact on the heritage assets should be balanced and outweighed by the delivery of clear public benefits (in accordance with NPPF paragraph 202). Consequently, Historic England emphasise that in determining the proposal it is essential that the Council is satisfied that the loss of the historic buildings and the proposed residential density are necessary to make the development viable and that the transformative development of the site can only be delivered in this manner. Therefore, in accordance with the requirements of the NPPF (paragraph 202) and the advice of Historic England, the Council's consideration of the development's impact must be demonstrably based on whether the "public benefits" of the proposal are convincing and sufficient to justify the harm to the Grade II* listed buildings and the conservation area.*
- 10.32 *The applicant's Heritage Statement acknowledges the high level of harm which would result from the development but states that this would be, "balanced against the substantial public benefits that would be achieved by the redevelopment of the Site". The stated public benefits outlined in the Heritage Statement and application included, "the repair and restoration of the principal parts of the Grade II* listed building, the provision of a secure economic future for the Grade II* listed building and the enhancement to the setting of the listed*

buildings and the conservation areas” (page 51). These benefits are not demonstrated in the proposal or committed to in the draft S.106 agreement.

- 10.33 *It is understood that the extensive listed building repair and restoration works will be lengthy and require detailed specification, hence acceptance that the overall development would need to be carefully phased to facilitate its delivery. However, it will be evident that the listed building has continued to deteriorate since being presented to Committee in February 2021, when Buildings F1, F2, and F3 were already in poor condition. These parts of the building complex which are required to be retained now exhibit clear openings in the roof and signs of unauthorised access which will have accelerated the grade-II* building’s deterioration.*
- 10.34 *The minimum ‘Urgent Repair Works’ necessary to arrest the deterioration of the grade-II* former infirmary (as reported to committee in February 2021) have not been implemented. The applicants were advised in February 2021 that the following works should be undertaken without further delay to simply arrest the listed building’s deterioration and help minimise repair costs to the part of the site which they intended to retain.*
- a. Establish secure site compound around whole site and security monitoring. Secure the building. Both externally and via other buildings on the site as they are all interconnected. Carry out ongoing security checks.*
 - b. Erect protective boarding around the sensitive fabric of the key buildings, such as the portico columns and the listed sculpture.*
 - c. Make the roof weathertight – using temporary repairs if necessary, such as bitumen felt in parapet gutter and over hips and ridge. Undertaking temporary repairs to missing slates – new slates or felt repairs and clearing downpipes and gutters of debris and vegetation.*
 - d. Adequately ventilate the building, to include basements to prevent dry rot.*
 - e. Board broken windows (with through ventilation) to prevent unauthorised access and pigeons. Due to access difficulties it’s unknown whether propping is required internally.*
- 10.35 *The above basic works fall under the category of “Urgent Works to preserve unoccupied listed buildings” as per Section 54 of the Planning (listed Buildings and Conservation Areas) Act 1990, commonly referred to as ‘S.54 Urgent Works’. Such works could be required to be undertaken by the serving of S.54 notice on the property owners by the Council, and if not implemented the Council could execute the works at its expense and recover the cost from the applicants under Section 55 of the 1990 Act.*
- 10.36 *The proposed S.54 Urgent Works would not bring the grade-II* listed building back into active use and are not sufficient on their own to provide a “clear and convincing justification” for the extent of demolition proposed by the current proposals. Consequently, they would not provide ‘public benefits’ as they simply arrest the deterioration of the property owner’s heritage asset, temporarily protecting the listed building in the short-term until the full development commences, to help manage escalating fabric repair costs.*

- 10.37 *The implementation of S.54 Urgent Works would not normally require Planning Permission or Listed Building Consent so there should be no reason why a prudent developer would not implement them to protect the heritage fabric and the future investment in the building. Unfortunately, the applicants have resisted implementing the necessary works and challenged the definition of the scope of the S.54 Urgent Works, in particular the timing and scope of works to the roof. Consequently, the S.106 Agreement which would have included the implementation of these basic repairs has not been finalised and the building remains vulnerable and open to the elements.*
- 10.38 *It was understood that the proposed development would help deliver one of the objectives of the Huddersfield Blueprint (opportunity site 7) and address concerns at a priority site that is included in the national Heritage at Risk Register. The hybrid application was intended to allow a phased development with consideration given to the design and detailing of the proposed residential development on the northern end of the site at the reserved matters stage. This was to be delivered in parallel to the restoration and conversion of the listed building.*
- 10.39 *The Listed Building Consent and Hybrid Planning application forms part of a complicated proposed development package intended to secure the sustainable redevelopment of the whole former Infirmary and Kirklees College site. The successful delivery of the proposed development would offer an opportunity to conserve and re-use the listed building group as well as enhance a significant part of the designated conservation area, contributing to the strategic regeneration of this part of Huddersfield town centre.*
- 10.40 *Consequently, the principle of re-purposing the grade-II* listed building for residential/office use, partly facilitated by the demolition of the less-significant former infirmary buildings and the construction of new-build residential apartments and the former Kirklees College buildings (as a retail outlet) would be supported if it can be demonstrated that the whole development package is deliverable.*
- 10.41 *Given the high-heritage status of the listed building, it is essential that any consented development package for the site delivers the conservation of the retained former infirmary buildings (buildings F1, F2, and F3) and that the rejuvenated listed building group is complemented by new-build accommodation which demonstrates a high-quality of architectural expression and landscaping. This is essential to provide the necessary social and environmental benefits which would counter-balance the demolition of components of the listed building and the conservation and the transformation of the site.*
- 10.42 *It is now understood that the current proposals delay the phased implementation of any works to the retained listed building (including temporary fabric protection works), while concentrating on the clearance of the former college buildings (to facilitate the retail food store) and the creation of a 'development ready' cleared site for implementation by others.*

Conclusion

- 10.43 *The clearance and redevelopment of the former college buildings is acknowledged as a positive. However, the apparent outcome of the current proposal would be the demolition of substantial parts of the grade-II* listed building and continuing uncertainty of the future for the retained former infirmary buildings and the northern part of the site. The public benefits of the proposed development have, therefore, not been clearly demonstrated sufficient to address the requirements of NPPF Paragraph 202 or Local Plan Policy LP35.*
- 10.44 *It is, therefore, recommended that the applicants are advised to include a robust programme of temporary or Urgent Works as the basis to demonstrate their commitment to the delivery of their stated, “repair and restoration of the principal parts of the Grade II* listed building, the provision of a secure economic future for the Grade II* listed building and the enhancement to the setting of the listed buildings and the conservation areas”.*
- 10.45 *As a minimum the principal parts of the Grade II* listed building (i.e., buildings F1, F2 & F3) must be made weatherproof and watertight, prior to any commencement of demolition works. This would facilitate the necessary surveys and inspections required to determine the scope of repair works and establish a clear construction programme for the focus of the site.*
- 10.46 *Similarly, to secure the future of the retained listed building, the S106 Legal Agreement covering the site must demonstrably facilitate the delivery of the restoration and reuse of the former infirmary buildings by being tied to relevant stages of the construction of the new build apartments on the northern part of the site. This requires the imposition of triggers in the S.106 agreement to ensure that the restoration of the principal parts of the listed building (building F1, F2, and F3) to be secured and implemented as a single construction project in parallel to the new build apartments.*
- 10.47 *The concern is that without such commitment the site the retained part of the listed building would not be restored and brought back into use, thereby negating the claimed public benefits and the “clear and convincing justification” for either the required demolition or the new residential apartments.*
- 10.48 *Historic England previously advised that that they have no objections to the office or residential re-use of the Grade II* listed building. The updated position of the applicants has required a formal consultation with Historic England and this is included within paragraphs 10.36.*
- 10.49 *A separate application (2018/92687) for Listed Building Consent was submitted to accompany the planning application. This relates only to the works to the Listed Building (including the demolition of those buildings and structures classed as curtilage buildings). If the committee resolve to support the officer recommendation the listed building application will be approved under delegation at the same time. Similarly, if the application is refused the listed building application will be refused under the scheme of delegation.*

Statue of King Edward VII (Grade II listed)

- 10.50 This statue stands in the car park to the east of the original infirmary building. It consists of a bronze statue of the King in Garter Regalia on a granite plinth with bronze plaques of Peace, Sympathy, and Industry on three sides. The immediate setting of the statue of King Edward VII currently undermines the significance of this listed building. The surface parking, condition of surrounding buildings, and proximity of the large college buildings are all detrimental to its setting.
- 10.51 Officers sought amendments to the original scheme that secured a reduced level of surface car parking to the front of the primary listed building (building 1) and improved the area surrounding the statue so that that the attractive setting to the front of the Listed building and the statue could be enhanced and better appreciated with less visual clutter from car parking.

Demolition

- 10.52 The former college buildings (Blocks A to E as shown on the demolition plan) consist of 1970s tower blocks and previously used as a college campus. These buildings are heavily vandalised and have a negative impact on the immediate vicinity, and wider area including the nearby Conservation Areas. They adversely impact upon the setting of the retained listed building and indeed, completely obscure any view of the former infirmary (Building 1) from the south, southeast and southwest of the site. Officers consider that the demolition of this group will open views through the site towards the primary listed building within the historical core.
- 10.53 The buildings on the northern part of the site, (namely Blocks, H, G, J & K on the demolition plan) would result in the loss of some of the later phases of the hospital complex. The applicants state that their demolition is justified in part as these buildings have been altered, are currently vacant, and as a result of vandalism and fire, are in a poor condition. Due to their design and layout, these later blocks do not lend themselves to conversion for modern office or residential use.
- 10.54 Kirklees Council Conservation & Design officers did have concerns with the demolition of Building G. This building, which is listed as part of the infirmary complex, is considered to contribute to the significance and evolution of the site, with the two pavilions on the Portland Street elevation of this Art Deco building making a positive contribution to the character of the Greenhead Park / New North Road Conservation Area. The demolition of this building would cause less than substantial harm to the significance of the infirmary complex and character of the conservation area and this needs to be weighed against the public benefits of the proposal.
- 10.55 The applicants Viability Appraisal (VA) was assessed on behalf of Kirklees Council by Avison Young (AY) who produced an independent VA that concluded that the proposed demolition and density of new development at the northern end of the site is necessary to fund basic works to the 1831 infirmary building and attached wings. It states that without this level of work, the restoration of the listed building would be unviable.

- 10.56 Kirklees Council Conservation & Design officers advise that they can only support the level of demolition proposed should the public benefits associated with the restoration of the heritage buildings be secured. The clearance and redevelopment of the former college buildings is acknowledged as a positive, however, the apparent outcome of the current proposal would be the demolition of substantial parts of the grade-II* listed building and continuing uncertainty of the future for the retained former infirmary buildings. Given that the restoration of the heritage buildings is not now to be secured, the less than substantial harm caused to heritage assets through demolition is not outweighed by public benefits of the proposed development and the scheme fails to meet requirements of NPPF Paragraph 202 or Local Plan Policy LP35.

Northern Site (Buildings 4 & 5 on masterplan)

- 10.57 Although the submitted design of Buildings 4 and 5 show limited detail and this gives some uncertainty at this outline stage, it will provide the opportunity for detailed design discussions at reserved matters stage, when consideration must be given to the NPPF paragraph 130 and 192 – 196 as well as LP17, LP24 and LP35 of the Kirklees Local Plan. This will allow the regeneration of the site to proceed while safeguarding Buildings 1, 2 and 3.
- 10.58 KC Conservation & Design officers raised concern that the indicative scale and location of the new-build apartments would have a significant impact on the character of their context within the Conservation Area and requested that the applicants demonstrate that the indicative quantum of new build (197 apartments proposed) is the minimum necessary to make the overall development viable. However, this has been justified through the viability process and the evidence contained within the Viability Appraisal. Consequently, the quantum proposed, is considered to be the minimum amount of development.

Historic England

- 10.59 Historic England were consulted given the clarification of the applicant's position on the scope of their public benefits commitment, which does not include securing of the conversion of the heritage buildings beyond completion of the urgent works. Historic England commented on 02/11/21 as follows:

Historic England Advice

- 10.60 *We understand that the above applications are returning for consideration by your authority's Planning Committee. Our most recent advice is contained in our letter of 14 September 2020 in response to the entirety of the information submitted with the application. As we understand it, the scheme is largely unchanged from that time.*
- 10.61 *In considering whether to grant consent for the proposals, your authority needs to consider whether the public benefits of the proposal are sufficient and securable to justify the harm to the Grade II* listed buildings and the conservation area. If the scope of the project or the proposals for the listed buildings have changed, your authority may wish to consider whether this should be considered as a fresh application.*

10.62 *Please refer to our previous letter for our full advice, but excerpts are included below to outline our position.*

Historic England Position on the Applications

10.63 *The development principles outlined in the local plan site allocation for this site state that: “Development proposals will be required to retain and reuse the Grade II* former Infirmary buildings. Any new buildings or structures should conserve those elements which contribute to the significance of the Listed Buildings on this site and the character of the Conservation Area.”*

10.64 *We acknowledge the challenges of converting this site to a new use and welcome the many positive changes that have been made. We recognise the need for the proposal to be viable and therefore understand that the loss of some of these historic buildings may be necessary in order to achieve the repair and conversion of the grade II* listed Infirmary and rear wings and improvements to the forecourt.*

10.65 *However, the degree of loss and the density of the proposed development to the north of the site, with its impact on to the conservation area and setting of listed buildings, are a concern.*

10.66 *We believe that there would be harm to the grade II* listed Infirmary building and there is likely to be harm to the Greenhead Park Conservation Area. Although overall we consider that the level of harm caused will be less than substantial in NPPF terms, any harm requires appropriate justification and consequently, we ask that your authority is satisfied that the loss of historic buildings and proposed density are necessary to make the development viable and that this can only be delivered in this particular way.*

10.67 *When making this judgement, we ask you to consider the ‘special regard’ which must be paid to the desirability of preserving listed buildings or their settings as well as the desirability of preserving or enhancing the character or appearance of conservation areas. If your authority is minded to grant consent for the proposals you should consider how the public benefits of the scheme, including the repair and conversion of the listed building, can be secured as part of any consent granted*

Recommendation

10.68 *Historic England has concerns regarding the applications on heritage grounds.*

10.69 *We consider that the issues and safeguards outlined in our advice need to be addressed in order for the applications to meet the requirements of paragraphs 130, 197-202 and 206 of the NPPF.*

10.70 *In determining these applications you should bear in mind the statutory duty of sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.*

10.71 *In addition, section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise. Your authority should take these representations into account and seek amendments, safeguards, or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.*

Georgian Group

10.72 The response dated 03/09/2020) from the Georgian Group does recognise and welcome the repair and reuse of the original c1831 former infirmary building. Their response is summarised in the concluding paragraph and is therefore interpreted as an objection and states:

10.73 *The proposed works to the former hospital complex would collectively cause a considerable degree of harm to its significance, and to the character and significance of the surrounding conservation area. Parts of the proposed work including the proposed total demolition of the later nineteenth and early twentieth century hospital ranges are of a particularly controversial nature and have not been adequately justified. We would therefore urge the applicant to withdraw this application until such time as they can address the issues highlighted within this letter. If the applicant is unwilling to do so, then consent should be refused.*

Huddersfield Civic Society:

10.74 The Huddersfield Civic Society have stated that they welcome the retention and conversion of those buildings marked Buildings 1, 2 and 3 on the submitted plans. It also echoes those concerns, articulated in the Society's original comments, concerning the proposed residential block (Building 5) but notes the applicant states, 'this drawing shows an indicative design only. Detailed planning permission is not sought for this building'. Should a detailed application on this part of the site be submitted it is essential that attention is paid to the relationship with buildings within the adjacent Conservation Area and particularly those along Portland Street. It may be appropriate for a planning condition to this effect to be incorporated into any approval granted on this initial phase of the site development. However, the Society wishes to state its strong objection to the elevational details of the proposed supermarket and related car parking. This occupies one of the most prominent sites within Huddersfield, adjacent to Castlegate (ring road) and Trinity Street, the latter providing the main access to and from the M62 motorway.

10.75 Over the past few years there have been a number of high quality developments fronting the ring road, including those on the university campus and Huddersfield Sports Centre which have complemented buildings of architectural and historic value such as St Paul's Church and Queensgate Market. Those buildings on the former Kirklees College site, which were constructed in the 1960/70 period, have, generally, been considered to be of poor architectural quality, particularly in relation to the former Infirmary, adjacent Conservation Area and the prominence of the site. The proposed supermarket would appear to achieve even lower standards of design, particularly in relation to these features. It would, therefore, be a retrograde step for approval to be given to this element of the proposal, and contrary to objectives of the Council in promoting good design, on a site which leads to the

Station Gateway, where a fundamental ambition within the Council's Blueprint is to enhance the heritage and commercial attractions of the town. Furthermore, this element of the application should, at the very least, undergo some major design revisions coupled with a far greater focus on materials, elevational detail, built form and landscaping, incorporating greenspace with tree planting. Finally, the Society view the introduction of the proposed supermarket, into an existing application, to be wholly inappropriate given no such element was included in the original application. There is little clarity regarding the 'revisions' and major conflicts between the (still undecided) Aug 2018 application on the council website and statements in latter documents. By accepting this change as a 'revision' to an existing application, the opportunity for members of the public to submit comments has been significantly curtailed from the time frame allowed in the event of a new application. As such, we strongly recommend this application be rejected and the applicant asked to resubmit a new application to ensure residents of Huddersfield are allowed the opportunity to express their views. As it stands any approval would be a retrograde step for the town and severely question the Council's commitment to its' own BluePrint and its ability to positively promote high standards of architecture and design.

Conclusion on Heritage

10.76 Paragraph 199 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

10.77 Paragraph 200 of the NPPF clarifies that any harm to the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Paragraph 202 continues that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, as is the case here, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

10.40 KC heritage officers have advised that the development will have.

10.78 It is also noted that Heritage officers advise that the demolition of building G will cause less than substantial harm to the significance of the infirmary complex and character of the conservation area.

10.79 Officers consider that the public benefits of the scheme would include the following:

- Programme of urgent works to grade 2* listed building (buildings 1 ,2 &3) that is currently on the National Heritage at Risk Register;
- Enhancement of the setting of the primary listed building and its wings through the extensive demolition;
- Partial regeneration of a highly prominent derelict site within the Town Centre (Whole site other than the heritage buildings (buildings 1,2 &3)
- Secures a significant level of investment and employment opportunities;

- Provision of 229 Dwellings in a sustainable location and within the Town Centre which when occupied assists with spend within the local economy and support retail units and town centre vitality and viability.
- 10.80 The applicants have submitted information that is within the Appendix of this report and summarises the public benefits of the scheme given the applicants clarification of what is secured within the phasing plan. These details are the applicant's view of the public benefits of the proposal, and they may be considered to be material considerations by the decision maker.
- 10.81 In terms of weighing the less than substantial harm to the significance of the designated heritage assets against the public benefits of the proposal, including securing its optimum viable use, Officers consider the following:
- 10.82 It is recognised that the scheme would secure urgent works to the heritage buildings. However, such works are similar to those that can be secured under the "Urgent Works to preserve unoccupied listed buildings" as per Section 54 of the Planning (listed Buildings and Conservation Areas) Act 1990 where the site owner could be required to board up windows and secure the buildings, make the roof weathertight, ensure proper ventilation, clear the downpipes and gutters of debris all of which would assist in protecting the sensitive fabric of the key buildings. However, it should also be recognised that the applicants scheme requires the urgent works to be split into 2 stages with the temporary works to the roof within the later stages which could be 18 months away from completion. Consequently, Officers consider that this can be afforded limited weight as a result.
- 10.83 Partial regeneration of a highly prominent derelict site within the Town Centre (Whole site other than the heritage buildings (buildings 1,2 &3) would be a significant benefit, with visual improvements of this derelict site initially from removal of the college buildings to the south would enhance this part of the town centre and its surrounding locality. Officers consider this should be afforded medium weight at most given that uncertainty will remain over the whole site delivery.
- 10.84 The provision of 229 dwellings would also weigh in favour of the proposal albeit somewhat moderated by the failure of the scheme to secure any affordable housing. However, the economic and social benefits of a development in terms of the creation of jobs associated with the construction stage, or that new residents would be likely to support existing local services and businesses as well as having the potential to contribute to the vitality of the town is given limited weight as these factors would be common to any such development in a Town Centre.
- 10.85 Furthermore, the Framework is clear that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. Grade II* buildings are particularly important buildings of more than special interest; 5.8% of listed buildings are Grade II*. Without a mechanism to secure the conversion of the heritage buildings to an advanced stage, the public benefits identified do not outweigh the harm identified by the demolition of heritage assets and the failure to restore them to a viable re-use. Consequently, the proposal is contrary to Policy LP35 Kirklees Local Plan and Paragraph 202 of the NPPF.

Residential Amenity & Unit Sizes

- 10.86 Local Plan Policy LP24 advises that good design should be at the core of all proposals. It states that development should provide good design by ensuring, amongst other matters, that they provide a high standard of amenity for future and neighbouring occupiers and also, that they are adaptable and able to respond to change and offer flexibility to meet changing requirements of the resident / user. As a consequence, matters such as maintaining appropriate distances between buildings, outside garden areas and also the provision of adequate living space are material planning considerations.
- 10.87 The applicants submitted a Noise Impact Assessment and Air Quality Assessment with the application. In terms of noise impact the retail part of the development on the southern parcel will generate noise that has the potential to affect the residential amenity of residents both within the development on parcels to the north of the site in outline form and the units within the listed buildings and in proximity to the development. Considerations are given to the operation of the site once each of the sections have been completed and also during the construction phase.
- 10.88 Although residential development would increase activity and movements to and from the site, it is not considered that neighbouring residents would be significantly impacted. The proposed residential use is not considered incompatible with existing surrounding uses.
- 10.89 A condition requiring the submission and approval of a Construction Management Plan (CMP) is proposed. The details submitted for a future discharge of condition would need to sufficiently address the potential amenity impacts of construction work at this site.
- 10.90 In terms of Air Quality, the site abuts the ring road and is adjacent to the Air Quality Management Area (AQMA). Considerations are given to both the living conditions of occupants of the proposed residential units and office use (within building 1 of the masterplan). Further details of the assessments undertaken will be reported in the update.

Unit sizes

- 10.91 The application proposes the following unit size and mix of apartments for the full application detailed for the conversion of the primary listed building (Buildings 1, 2 & 3):
- Studio
 - 1 bed
 - 2 bed
- 10.92 The detailed design of the units within the outline part of the site for buildings 4 and 5 would be submitted at Reserved Matters stage.
- 10.93 Overall, the mix is considered to be acceptable and would contribute towards creating a mixed and balanced community.

10.94 The sizes of the proposed residential units is also a material planning consideration. Local Plan policy LP24 states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, and the provision of residential units of an adequate size can help to meet this objective. The provision of adequate living space is also relevant to some of the council's other key objectives, including improved health and wellbeing, addressing inequality, and the creation of sustainable communities. Recent epidemic-related lockdowns and increased working from home have further demonstrated the need for adequate living space.

10.95 Although the Government's Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's draft Housebuilder Design Guide SPD. NDSS is the Government's clearest statement on what constitutes adequately-sized units, and its use as a standard is becoming more widespread – for example, since April 2021, all permitted development residential conversions were required to be NDSS-compliant.

10.96 The applicant has confirmed unit sizes within buildings 2 and 3. Assuming the lowest number of intended occupants, and assuming some of the studios would be provided with shower rooms instead of bathrooms, 30 of the 32 dwellings would be NDSS-compliant. This equates to 93.7% complying with NDSS. The proposed unit sizes are as follows (grey highlights the non-compliant units):

Building	Description	Number of units	Size (GIA) sqm	NDSS (GIA) sqm, lowest number of occupants
2	Studio	2	37.0	39 (37 with shower)
	Studio	1	37.6	39 (37 with shower)
	Studio	2	39.5	39 (37 with shower)
	1 bed apt	1	44.8	39 (37 with shower)
	1 bed apt	1	45.9	39 (37 with shower)
	1 bed apt	3	49.2	39 (37 with shower)
	2 bed apt	2	63.3	61
	2 bed apt	1	64.0	61
	2 bed apt	1	64.1	61
	2 bed apt	1	64.4	61
	2 bed apt	1	66.7	61
	2 bed apt	1	67.1	61
	2 bed apt	1	68.7	61
	2 bed apt	2	72.0	61
		Total	20	
3	1 bed apt	1	45.1	39 (37 with shower)
	1 bed apt	1	54.5	39 (37 with shower)
	2 bed apt	1	55.4	61
	2 bed apt	1	56.6	61
	2 bed apt	1	62.9	61
	2 bed apt	1	63.8	61
	2 bed apt	1	66.7	61
	2 bed apt	1	68.2	61

2 bed apt	1	68.4	61
2 bed apt	1	69.8	61
2 bed apt	1	69.9	61
2 bed apt	1	72.9	61
Total	12		

10.97 The proposed unit sizes overall are considered acceptable, noting the policy position in relation to NDSS, as well as paragraph 018 of the “Housing: optional technical standards” section of the Government’s online Planning Practice Guidance (ref: 56-018-20150327).

Ecology and Trees

10.98 An updated bat survey and walkover of the site was undertaken and submitted with the amended scheme received in 2020. This revealed minimal changes to the buildings and habitats on the site since the original surveys undertaken in 2017, and therefore with the application of mitigative measures, the risk to protected species is considered unlikely. With regard to the outline element of the scheme to the north only, surveys may require repeating on the buildings to the north of the site (G-K) at reserved matters stage to ensure the status of bats has not changed if the application is not submitted within 2 years from the date of the latest survey.

10.99 In accordance with Local Plan Policy LP30(ii) development is required to “minimise impact on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist”. The Council’s Ecologist raises no objection provided pre-commencement conditions are included to ensure compliance with Policy LP30.

KC Trees

10.100 Arboricultural Report Surveys were undertaken and submitted to Kirklees Tree officers to assess. There are no objections to the proposals on the majority of the site subject to conditions.

10.101 With regards to the retail store element of the scheme, amended plans have been received showing that two trees (T38 and T41 Horse Chestnut) to the south of the food store are now to be retained rather than removed. They are of good size and form and would contribute to the overall amenity value and species retained on the site.

10.102 The KC Arboricultural officer has advised that the applicants have attempted to retain as many trees as possible on a difficult site with many constraints. The location of two trees on an embankment to the front of the store and close to retaining structures makes it difficult to accurately assess at this moment whether they can still be retained, once detailed structural assessments are made but this process could be undertaken by making a Non-Material Amendment application (Section 96a type application to Kirklees Council). The applicants did agree to attempt to retain them which is a preferred starting position. It should also be recognised that amended landscaping plan (R-2377-1C landscape) includes enhanced planting within the car park area of proposed food store which is of benefit to the scheme both visually and from an ecology perspective. Details of the tree protection measures for the whole site will need to be secured as a condition in the form of an Arboricultural Method Statement to ensure compliance with policy LP33 of the KLP.

Planning obligations and financial viability

10.103 The application before members has not amended or updated any details of the viability appraisal since the previous committee report 24th February 2021. Therefore, the details in the viability section of this report remain unchanged.

Under planning policies identified the scheme generates the following requirements:

Affordable housing:

10.104 Policy LP11 of the Kirklees Local Plan requires 20% of the dwellings on the site to be affordable. Based on a total of 229 units 46 dwellings would be required. However, Vacant Building Credit is applicable and due to the extensive buildings on site the calculation has removed the requirement to provide affordable units.

Education:

10.105 Policy LP49 of the Kirklees Local Plan provides for educational needs arising from new development. The scheme generates a total requirement of £291,469 towards primary school provision (Spring Grove J I & N School). No secondary education is required by this development.

Open space:

10.106 Policy LP63 of the Kirklees Local Plan relates to the provision of open space on new developments. The proposal showing a shortfall in Open Space provision of £373,578.

Highways:

10.107 An additional highway improvement scheme is also to be delivered in the direct vicinity of the proposed development to improve pedestrian and cycle links to the town centre, this will be conditioned and delivered by an agreed section 278. (Accepted that delivery will depend on viability of the scheme)

10.108 An upgrade to the existing lighting is requested as part of this development and will be conditioned accordingly. (Accepted that delivery will depend on viability of the scheme)

Financial Viability:

10.109 The applicant has submitted a financial viability appraisal (VA) which has been independently assessed on behalf of Kirklees Council, therefore for the purposes of the report is referred to as AY.

10.110 Without a reasonable profit there is no commercial justification to a developer investing money into a site. For the purpose of the assessment a target profit equal to 20% on cost (which equates to 16.67% if profit is measured in GDV) is considered to be a reasonable profit for the scheme proposed.

10.111 The key differences in the Viability Appraisals are as follows:

Sales Values:

10.112 The applicant's VA assumes a sales value of £250 per sq ft on the new build residential element and £240 per sq ft on the residential conversion. Whereas AY VA assumes sales values of £250 per sq ft across the whole scheme.

Development Value:

10.113 The Applicant has not included any cost or value associated with the office conversion of Building 1. This is because they believe the office conversion to be unviable. AY have included the office development to demonstrate to committee the non- viable conclusion of this element of the scheme.

Build Costs:

10.114 The applicants assumed build cost of £140psf for the new build residential development and £145psf for the conversion elements but not included any costs other than making the building wind and watertight for the refurbished office conversion. AY have adopted £122.54psf for the new build element (external works) as the scheme will need to be designed in a sensitive manor in view of the listed buildings on the site, £113.53psf for the residential conversion and £90.30 psf for the office conversion

Contingency:

10.115 The applicant has made an allowance of 2.5% on construction costs in their appraisal for a contingency. AY have assumed a contingency of 5% on construction costs to be normally applicable for brownfield/previously developed sites.

Project fees:

10.116 The applicant has included project fees at 6.85% on build costs whereas AY have applied 8%.

Land Value:

10.117 Applicant included a land value of £2,350,000. AY have included a land cost of £1,100,000, However, it is understood that £250,000 of fire damage works, as well as c. £750,000 of demolition works were quantified at the time of purchase. Valuation colleagues were in contact with the applicants Viability Consultants a couple of years ago about the application site when valuing another Kirklees College site. It was explained that there was c. £1,000,000 worth of abnormal costs associated with the site at the time. The price paid for the site should reflect these abnormal costs. Therefore AY deducted the c. £1,000,000 from the £2,100,000 purchase price to get to £1,100,000 and then included the £1,000,000 abnormal costs in our appraisal.

10.118 The Applicant's VA did not include any cost or value related to the office conversion, since they believed this element of the scheme is fundamentally unviable. As a result, no funds have been allocated to undertake the conversion works other than to make the building wind and water-tight at a maximum cost of £500,000. AY included the office element of the scheme in the appraisals to determine the overall viability of the scheme. AY appraisal and scenario 1 shows that the Applicant's VA is correct in that the office element of the scheme does not generate a value more than the costs. In the sensitivity analysis, when the office element has been removed it is then included the £500,000 works in the appraisal to ensure the cost is accounted for.

10.119 The aim of our assessment is to reflect industry benchmarks in development management viability. The Council's VA ignored the nature of the applicant and disregarded all benefits or disbenefits that are unique to the applicant. On this basis, the Council have removed circa £2,250,000 of costs that are considered to be unique to the Applicant. Therefore, the Applicants viability is substantially worse than our assessment shows.

10.120 The Council's assessors agreed with the applicants on the following issues:

- Policies would require the scheme to provide S106 obligations for education (£291,469), Public Open Space (£50,000) and a sustainable travel contribution (£60,000) amounting to £401,469

10.121 The VA Assessment demonstrates that with the inclusion of the S.106 obligations, the scheme generates a residual profit of £3,719,842, equating to approximately 9.67% profit on cost.

10.122 It should be noted that the figure for POS contribution has been revised to £373,535. This does not have a bearing on the viability conclusions or officer recommendation.

Sensitivity Testing

10.123 As part of the viability assessment a number of scenario's are explored to test:

- 1) Considered the viability of the scheme on the basis that the office conversion is simply made wind and watertight at a cost of £500,000. Under this scenario the profit generated by the scheme increases to 10.56% on cost. Whilst the viability is improved the profit generated still falls short of the 20% on cost which is deemed to be a reasonable return for the developer.
- 2) Considered the S106 requirements and builds on sensitivity one and removes the S106 obligations in addition to reducing the costs of the office conversion to £500,000 which would simply put the building into a weather tight state. Under this scenario the profit increases to 12.21% on cost (which equates to 11.74% on GDV) which is well below the threshold of 15-20% on GDV advised within the NPPF. Even under this scenario the profit on costs still falls short of the 20% profit on costs which is a advisable target.

- 3) Officers requested that the VA considered the possibility of Building 1 (the main listed building) for residential conversion rather than an office use. However, based upon a crude calculation and without accounting for additional costs on top such as professional fees (8% of build costs), contingency (3% of build costs AY assumed 5% in the appraisal) and finance (varies), although the level of deficit was reduced it was still - £250,764 in deficit.

Conclusion on Viability:

- 10.124 The VA demonstrated the scheme (with no S106 contributions the development is viable but unable to generate a return (profit) which is commensurate with a reasonable return for a scheme of this nature (i.e. 20% on cost). Whilst removing the S106 obligations will in no way ensure a profit which commensurate with a scheme of this nature it may actually mean the applicant can broadly break even and deliver the scheme.
- 10.125 An overage clause can however be included within the S106 in the event that the conversion costs (buildings 1,2 &3) end up being significantly less than the applicant anticipates and in turn yields a substantial uplift in the level of developer profit. In this event these funds will go to provide the planning obligations that cannot be secured at this time.

Phasing

- 10.126 KC heritage officers have assessed the external condition of the primary listed building (buildings 1,2&3 as shown on the masterplan) and it is evident that the listed building has continued to deteriorate since being presented to Committee in February 2021, when Buildings F1, F2, and F3 were already in poor condition. These parts of the building complex which are required to be retained now exhibit clear openings in the roof and signs of unauthorised access which will have accelerated the grade-II* building's deterioration. Officers have again identified a number of urgent works (listed a-e) in paragraph 10.33 of this report that are required to address the deterioration of the heritage buildings on the site.
- 10.127 Officers consider that significant public benefits could have been secured through the re-use of the primary listed buildings on the site (as detailed in paragraph 10.23) of the Heritage section of the report. However, the applicants have clarified that their conversion will not be secured through the Section 106 agreement. It is essential that in granting permission for the wider site redevelopment that the retained heritage assets will be protected from further deterioration. Whilst the scheme will secure a programme of urgent works to prevent further deterioration it will not secure the reuse and restoration of the heritage buildings to an advanced stage. Officer's attempted to secure the conversion of the listed buildings to an advanced stage, such as to First Fix stage of building regulations requirements or its equivalent. However, the applicants cannot agree to this given the issues surrounding the issue of viability. Whilst the uses of the heritage buildings and the works contained within the scheme would be approved, they would not be secured through a phasing plan attached to this planning permission.

10.128 The condition of the internal fabric of buildings 1, 2 & 3 is at this stage unquantified. The external condition has been assessed recently by officer site visit and the condition previously reported prior to committee February 2021 has further deteriorated but is included below for members information and consistency with the previous committee report:

Building 1

All visible lead missing from the roof, including ridge and hips, chimney flashings.

- External damp staining to the masonry suggesting parapet gutter lead also stripped.
- Portico roof leaking badly.
- Limited ventilation – needs to be addressed.
- Vegetation growth on roof.

Buildings 2 and 3

- Open and broken windows
- Lead stripped from roof
- Ground floor window boarding not seen but is it ventilated?
- Vegetation growth on roof and in gutters.
- Site security is poor enabling access across the buildings (hoardings pulled away and broken and accessible windows, heras fencing collapsed, rubbish used to access and climb walls).

10.129 It should be noted that due to the inter-connected nature of the interior access is available throughout. Heritage Officers identified the Urgent Works are required and should be undertaken without further delay. Protracted negotiations between the applicants and officers on the content of the Programme of Urgent Works and their timing failed to reach full agreement, however applicants' proposal as was set out in the applicants drafted S106 document dated 17th August 2021 is included below. The applicants have been given the opportunity to comment prior to the agenda being published but may respond prior to the committee, in which case the response will be included within the agenda update.

Applicant programme of urgent works

10.130 **Stage 1** a detailed and fully costed scheme for the carrying out of the Stage 1 Urgent Repair Works provided always that the reasonable costs of carrying out the Stage 1 Urgent Repair Works shall not be required to exceed the sum of £100,000.00 (one hundred thousand pounds).

- a) the establishing of a secure site compound around the whole of the Heritage Buildings, the erecting of protective boarding around all sensitive fabric (such as the portico columns and the statue of King Edward VII), and the provision of ongoing security monitoring;
- b) installing ventilation measures to the Heritage Buildings (including basements) to prevent dry rot outbreaks;
- c) the repairing or boarding up (with through ventilation) of all windows so as to prevent access (including by birds); and

- d) works to clear the downpipes and gutters of Building 1 of debris and vegetation.

The Owner shall procure that the Stage 1 Urgent Repair Works are completed in accordance with the approved Stage 1 Urgent Repair Works Scheme not later than the date being **9 calendar months** following the date of the Planning Permission.

10.131 **Stage 2** the second stage of urgent works necessary to arrest the deterioration in the fabric of the Heritage Buildings which shall comprise (unless otherwise agreed in writing between the Owner and the Council):

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

The Owner shall procure that the Stage 2 Urgent Repair Works are completed in accordance with the approved Stage 2 Urgent Repair Works Scheme not later than the date being **18 calendar months** following the date of the Planning Permission.

10.132 It should be noted that Kirklees Heritage Officers have commented on the legal requirement of works under category of "Urgent Works to preserve unoccupied listed buildings" as per Section 54 of the Planning (listed Buildings and Conservation Areas) Act 1990, commonly referred to as 'S.54 Urgent Works'. The works identified in the Heritage Officer's response at paragraph 10.33 could be required to be undertaken by the serving of S.54 notice on the property owners by the Council, and if not implemented the Council could execute the works at its expense and recover the cost from the applicants under Section 55 of the 1990 Act.

Housing issues

10.133 Kirklees Strategic Housing Market Assessment (SHMA) identifies that there is significant need for affordable 3+ bedroom homes in Huddersfield South, along with a lesser need for 1-2 bed roomed properties. There is an additional housing need in the area, specifically for older people. Rates of home ownership are low compared to other areas within Kirklees

10.134 There is significant demand for affordable 3+ bedroom homes in the area, along with demand for 1 and 2 bed dwellings. The applicant proposes studio, 1, 2 therefore a mixture of these would be suitable for this development.

10.135 Under the National Planning Practice Guidance (NPPG) 'To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount- equivalent to the existing gross floor-space of the existing buildings through Vacant Building Credit (VBC)

VBC is applicable to this scheme resulting in the removal of all the affordable housing requirements in this scheme.

The provision of 229 units would contribute towards the Council's housing delivery targets as set out in the Local Plan.

Highway issues

- 10.136 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development will normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.
- 10.137 Paragraph 108 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 109 of the NPPF adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe

The revised scheme (August 2020) comprises as follows:

Full Application (Buildings 1, 2, 3 & 6)

- A1 Shops – 1,998sqm Food store;
- B1 Business – 1,866sqm Office; and
- C3 Dwelling Houses – 32 Apartments.

Outline Application (Buildings 4 & 5)

- B1 Business – Up to 15,004 Offices; or
- C3 Dwelling Houses - Up to 197 Apartments.

Traffic Generation

- 10.138 The application is supported by a Framework Travel Plan and a revised Transport Assessment and Framework Travel Plan Dated July 2020 (Rev 2) prepared by Optima Intelligent Highway Solutions. The submitted Transport Statement assesses the traffic impact of a development of various scenarios in trip generation terms.
- 10.139 The development as a whole is expected to generate a total of 269 two- way vehicular movements in the AM peak and 309 two- way vehicular movements in PM peak respectively. Highways Development Management considers the trip rates utilised to be acceptable in this respect.

Site access

- 10.140 Access/egress to the site is to be taken via four points the proposed food store via Trinity Street with egress for HGV's taken via Portland Street and the residential/office element will take access/egress via Portland Street.

Parking provision

- 10.141 The total parking provision for the development is 255 parking spaces, of which 127 are proposed for the A1 food store. This leaves 128 spaces for the remainder of the development, given the sites context and location (Town Centre), along with proposed cycle parking is considered acceptable in this respect. Whilst its acknowledged a framework Travel Plan has been submitted, a full Travel Plan will be required to ensure sustainable travel measures are provided, this will be dealt with via suitable condition. Parking figures taken from Transport Assessment.
- 10.142 An additional highway improvement scheme is also to be delivered in the direct vicinity of the proposed development to improve pedestrian and cycle links to the town centre, would be conditioned and delivered by an agreed section 278. (This would require a financial contribution and the scheme has been subject to Viability appraisal as reported in the viability section of the report).

Servicing/refuse

- 10.143 An indicative arrangement for the service vehicle to the food store has been provided, no further information is provided for the refuse storage and collection for the remainder of the development, this will be conditioned accordingly.

Safety audit

- 10.144 A stage 1 safety audit and designers response has previously been requested, as this has not been provided a suitable condition to cover the proposed highway works and access arrangements onto the highway is required.

Subway improvements

- 10.145 Concerns are raised regarding pedestrian safety in the existing underpass connecting the development to the town centre, an upgrade to the existing lighting is requested as part of this development and would be conditioned. (This would require a financial contribution and the scheme has been subject to Viability appraisal reported in the viability assessment).

Overall, the proposal is considered acceptable subject to relevant conditions.

Drainage issues

- 10.146 NPPF paragraph 155 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. The site was larger than 1 Hectare and therefore a Flood Risk Assessment (FRA) and submitted that considered the risk of flooding

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

10.147 Ground conditions at the site mean that soakaways are not considered a feasible drainage option for the disposal of surface water. The existing site drains to the public combined sewer system and Yorkshire Water has confirmed that the proposed development can discharge to the public sewer system at the 1 in 1 year rate less 30% subject to provision of detailed calculations and drainage connectivity survey. Flood risk to the proposed development from all sources is low, with the exception of localised surface water overland flows.

10.148 Yorkshire Water has confirmed that foul flows can connect to the existing combined sewer around the site.

10.149 The Lead Local Flood Authority (LLFA) support the development proposed. Conditions will require details to be submitted of scheme detailing finalised foul, surface water and land drainage, intrusive investigation into the possible enclosed watercourse inside the southern boundary, surface water discharge rates, interceptors and prevention methods of preventing contaminated drainage. As the scheme would not require attenuation infrastructure on site, the arrangements for the future maintenance and management of drainage infrastructure within the site is not considered to be required. Should the committee grant planning permission the updated S106 agreement would not include a maintenance contribution. The proposal accords with Local Plan policies LP27, LP28 and chapter 14 of the NPPF with regard to its potential impact on local flood risk and drainage.

Climate Change

10.150 On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

10.151 The proposal involves will recycling of a brownfield site and this regard represents an efficient use of land and resources. The site is at close proximity to key transport hubs and in terms of location the site is sustainable. The re-use of the listed buildings would secure a significant saving of embodied energy. The provision of electric vehicle charging points will be secured by condition which will help to mitigate the impact of this development on climate change. Suitable cycle storage facilities are also proposed and areas of landscaping will be enhanced with planting as well as the retention of existing trees where possible.

Representations

10.152 -Area is of significant importance to Huddersfield

-proposed new building elevations do not in any way respond to the 'Infirmery' the one listed building the developers are proposing to leave standing.

-the site does need to be developed but for such an important and visible area of Huddersfield an increased effort is required from this developer in respect of his proposed facade designs

Officer response: The site is adjacent to the ring road and is very prominent and is important that the sites redevelopment enhances the area and balances the site's potential whilst being an appropriate scale given the heritage assets upon and adjacent to the site. The outline part of the site to the North does not include details of appearance. The visual material submitted with the application is for indicative purposes only.

-profound impact the setting of the listed Infirmery building, which, as a Grade 2* building is considered of regional importance. Massing, articulation and fenestration, particularly those adjacent to the Infirmery, fail to reflect the architectural quality of the listed building and the town's distinctive architectural quality

- **Officer response** - Original comments from Huddersfield Civic Society have been updated with the revise scheme in Aug 2020. These are addressed in the Heritage section of the report

2020 - Revised Scheme:

- How happy I am to hear this and sincerely hope this application is successful.
- After 5/6 years and numerous callouts of the emergency services – both Police and Fire
- Site is a complete eyesore for visitors to this historic town putting Huddersfield in a very poor light indeed.
- The property is being used by many of the homeless community as a public convenience – and this I see on a daily basis

Officer response- The assessment of the scheme has recognised the impacts that the current condition of the derelict buildings is having upon the area and the social issues that are involved in developing this site.

-Huddersfield Civic Society- welcomes retention and conversion of those buildings marked Buildings 1,2 and 3 on the submitted plan

- Notes the applicant states, this drawing shows an indicative design only
- Should a detailed application on this part of the site be submitted it is essential that attention is paid to the relationship with buildings within the adjacent Conservation Area and particularly those along Portland Street
- strong objection to the elevational details of the proposed supermarket and related car parking and would appear to achieve even lower standards of design than existing college buildings
- contrary to objectives of the Council in promoting good design, on a site which leads to the Station Gateway, where a fundamental ambition within the Council's Blueprint is to enhance the heritage and commercial attractions of the town
- greater focus on materials, elevational detail, built form and landscaping, incorporating greenspace with tree planting.
-
- introduction of the proposed supermarket, into an existing application, to be wholly inappropriate given no such element was included in the original application.
-
- By accepting the changes as a revision, the opportunity for members of the public to submit comments has been reduced from the time frame allowed

Officer response: The hybrid application is supported by a viability appraisal that demonstrates the very challenging nature of developing this site and preserving through adaptation and use its key heritage assets. It is considered that through the course of the application the scheme has evolved from one at significantly greater scale and impact to one that has achieved a favourable balance where the positive elements of the development outweigh the identified elements of harm.

11.0 CONCLUSION

- 11.1 There are a number of significant planning issues associated with this application, not least heritage assets and the viability of the site and development.
- 11.2 The Grade II* status of the primary listed building means that it is in the top 8.3% of listed buildings in England. The buildings are however in poor condition and in need of urgent repair works to address its deterioration.
- 11.3 The application site is a highly prominent brownfield site allocated for residential development under site allocation HS116, and the principle of residential development at this site is considered acceptable. As decision makers the committee members may consider material considerations such as the partial regeneration of the site could outweigh the identified policies or guidance relating to development involving heritage assets. However, officers advise that in the absence of a completed Section 106 agreement the development fails to secure the conversion of the listed buildings (heritage buildings 1,2 & 3 as shown on the masterplan) and therefore provides

insufficient public benefits to outweigh the less than substantial harm caused by the scheme. The inability to secure the re-use of the Grade II* heritage buildings would fail to comply with Policies LP35 of the Kirklees Local Plan as well as Paragraph 202 and Chapters 2, 4, 7 and 16 of the National Planning Policy Framework. The application is recommended for refusal and Confirmation requested from committee that officers will issue an Urgent Works Notice (UWN) to preserve un-occupied listed buildings (Buildings 1,2, and 3 on the masterplan) under Section 54 of the Planning (listed Buildings and Conservation Areas) Act 1990, to require works listed a)-g) in paragraph 10.34 of this report to be completed and issued on the landowner as required.

- 11.4 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.
- 11.5 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would not constitute sustainable development and is therefore recommended for refusal.

Background Papers:

Application and history files.

Website link to be inserted here <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f90902>

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

Appendix:

Appendix 1 Applicant Letter

The applicants submitted comments to the council regarding the issue of public viability in a letter dated 27th October 2021. The main content of which is included below:

It is hoped we are going to be able to move forward side by side and represent the application to committee in November, and in that spirit we have pulled together a document summarising the 'benefits' of the scheme we are presenting.

Overview of position

- *The landowner is of the view that the members concerns expressed at committee centred largely on the elevations and look of the Lidl store. I am pleased to confirm that through dialogue and redesign we have satisfied all of the offices concerns around materials, elevations, signage, windows and landscaping (new CGI to be prepared).*
- *As you are aware, the applicant has always maintained that the sale of the first phase to Lidl and subsequent sale of the second phase of the new build residential / retirement apartments would 'enable' a combined maximum contribution of £400,000 towards*

ensuring the listed building and wings were shored up and made watertight to avoid further deterioration. This is predicated on making a 0% profit and in support, the Avison Young report suggested this was unviable.

This 'urgent works / repair' investment was proposed to facilitate the listed building phase being formally presented as part of a high-quality development and not, a site that currently detracts from the area. The applicant continues to pursue grant support off its own back to assist and has submitted a full business case to the West Yorkshire Combined Authority (WYCA) for Brownfield Housing Funding (BHF).

- The initial feedback from WYCA is that the business case is a 'quality submission'. However, through the clarification question process, Cushman and Wakefield have highlighted that even with the grant funding available, the scheme still would not meet typical profit expectations. This mirrors the advice in the Avison Young viability report.*
- By committing £400,000 towards the listed building and wings, Trinity One LLP are over providing based on professional advice procured independently by both Kirklees MBC and WYCA. If the applicant can secure a consent, it will enable them to instruct the enabling works contractor at a cost of £1.65 million as well as secure the Lidl disposal totalling £3 million which generates the funds to be re-invested in the site.*
- Build cost inflation, supply chain challenges and labour supply issues have also meant the cost of the enabling works has spiralled over the last 12 months, but we now have a fixed price to the end of 2021. There is still a need to pin down infrastructure / power costs given ongoing energy challenges. This allied with market uncertainty as a function of Covid-19, and reduced bank funding availability, have meant that attracting pre-let's has been impossible. Occupiers now want to have certainty of a scheme coming forward on site, hence the need to commit to demolition and clearance.*

As requested, below we set out the benefits of the proposed investment in the project. For ease of reference, we also enclose a more simplified and visual summary of the Trinity West project, adapted from one that was included in our business case submission to WYCA.

Economic Benefits

The economic benefits of the scheme can be split in two (1) construction (i.e. temporary) and (2) operation (i.e. permanent).

Construction

The proposed development will be a significant construction project, which will generate turnover and temporary employment for construction firms and related trades. The total construction costs of the proposed development will be around £43 million plus the build cost incurred by Lidl. The work will be over a c. 36-month build period and will create an estimated 222 jobs directly.

Construction activity, due to its heavy reliance on an extended and varied supply chain, has significant positive impacts that go well beyond the on-site jobs created and the capital expenditure invested in the proposed development. There would also be an estimated 177 indirect jobs created because of the construction activity.

Operation

Once Lidl have completed their multi-million-pound investment, there will be an estimated 40 jobs created at Lidl, with a range of skill levels from sales assistances to deputy manager level. Lidl is an equal opportunities employer and jobs will be offered across a variety of socio-economic groups which assists in creating inclusive societies. We discuss the social benefits in more detail shortly.

However, there are more economic benefits once the scheme is complete:

- The Lidl store will provide a discount alternative to other supermarkets and result in a clawback of convenience and comparison spend to the area,*
- Wages paid by Lidl are likely to be re-invested in the local economy and in the town centre,*
- Lidl will pay business rates on their property and this income can be re-invested by the Council, and*
- An increase in the number of people living close to the town centre will drive footfall and spend, stimulating economic growth and strengthening the local economy.*

The demand for local labour arising from the construction programme will primarily depend on the lead contractors appointed who are likely to have their own network of established subcontractors and labourers. However, as part of our grant application to WYCA, we have had to set out how we will seek to create social value through procurement. Examples how this could be achieved are:

- *Asking questions on whether suppliers pay real living wage and evaluate the impact on costs should it be applied as a condition of contract,*
- *Set targets for a proportion spend to be on Small Medium sized Enterprises and local organisations,*
- *Set targets for the number of training opportunities provided,*
- *Evaluate tenders against environmental impact in terms of waste reduction and carbon emissions,*
- *Ensure policies comply with principles of CIPS Ethical Code, and*
- *Ask companies to provide their policies on equality, diversity, and inclusion.*

Once complete, the project will provide up to 244 residential dwellings and a mix of studio, 1 and 2 bed apartments with potentially some 3-beds subject to the reserved matters application on phase

2. There is a housing crisis at a national, regional, and local level. In Kirklees, housing delivery is below expected levels and central government asked the Council to prepare an action plan in January 2021 to explore how barriers to housing delivery will be addressed. An issue identified in the Action Plan is the under delivery of brownfield land. There is an opportunity to start showing how the Council is addressing this issue and delivering much needed housing for the local community. In addition to diversifying the housing stock, this housing will generate Council Tax revenue that can be re-invested in the local community.

All elements of the mixed-use scheme will contribute towards reducing social exclusion and improving quality of life and general health and well-being through:

- *The provision of employment opportunities,*
- *Creating housing opportunities,*
- *Delivering a high-quality and inclusive built environment which is well lit and improves natural surveillance (in particular, the enhancements to the pedestrian route along the southern boundary that link with the Trinity Street Access Project), and*
- *Providing services in a highly sustainable location that are accessible to pedestrians and those using public transport*

Environmental Benefits

The site is in a highly sustainable location as identified in its Local Plan status as a key mixed-use allocation (MSX4). It is currently an eyesore and negatively detracts from the environment and town centre.

Redevelopment of the site will deliver on one of the core principles of the NPPF – the re-use of urban land. The scheme will create an attractive landscape with substantial new tree planting as well as opening views to the listed building and its wings. The scheme will significantly improve the environmental perception of this key western gateway site.

*The sustainable location of the site means residents will have direct and easy access to modes of transport other than the car. On-site in the listed building element, there will be 52 cycle parking spaces, a provision of over 1 per dwelling. There is also easy access to bus stops and Huddersfield train station. This will be improved with the **Trinity Street Access project** and **Station Gateway improvements** and our scheme contributes towards the economic rationale of both these investments. The ability to access shops, schools and medical services on foot also mean less reliance on the private car. Combined, our scheme and those being delivered by the Council will help to reduce CO² emissions in Huddersfield.*

Depending on project timescales, the new homes will have to comply to the latest building regulations. These are being strengthened and tightened over time as the government seeks to achieve net zero targets. Initially, changes to Part L of the Building Regulations (expected to be adopted by the end of 2021) will result in a 31% reduction of carbon emissions of new build homes. The Future Homes Standard will then be adopted in 2025 and it is estimated they will produce 75- 80% savings compared to current standards. In postcode HD1, less than 14% of properties have an energy performance rating of B+. This scheme will begin to improve the operational standards of properties in Huddersfield Town Centre.

Timing Benefits

We believe one of the key benefits of our proposal is the intention and ability to commence quickly. A positive committee outcome in November (and Section 106 in 4 weeks) will facilitate a commencement of the enabling works contract in January 2022 and Lidl starting their store construction in July 2022.

This site activity will facilitate the marketing of the future phases as a major regeneration scheme. Positively, the way we have structured the Lidl transaction enables our delivery of the cleared development platform as being self-funding and committed.

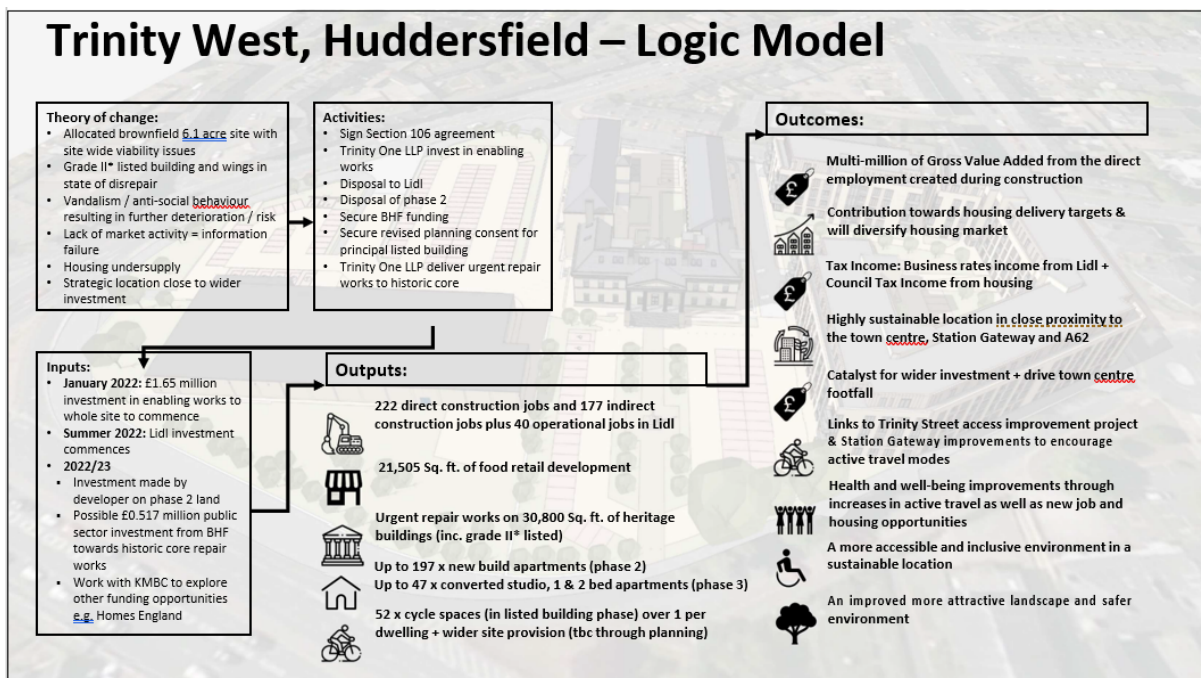
In the interim, we can continue to pursue options for grant aid support, and we remain keen to work with the Council in exploring other avenues such as working with Homes England or delivering an NHS drop in facility in line with lengthy dialogue we have held with NHS Architects.

The site has fundamental viability issues as confirmed by different independent advisers to Kirklees and WYCA. Without the first 2 phases of development coming forward, there can be no investment in the site and the benefits set out in this letter would not be achieved. The site is already a target for vandalism and anti-social behaviour and bringing the

site forward for regeneration will eradicate the problem.

This site presents a major regeneration opportunity for the Council with significant benefits. The NPPF gives significant weight on the need to support economic growth and seeks to ensure that investment in business is not overburdened by the combined requirements of planning policy expectations. Through the regeneration and sustainable development of this site, a more vibrant and attractive environment will be created at the western gateway to Huddersfield Town Centre. Along with investments proposed by the Council themselves, the schemes could be catalysts for further inward investment in the town. With a consent in November 2021, change could begin as soon as January 2022, sending out renewed and positive messages about the town in the New Year

Appendix 2: Applicant diagram



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Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 18-Nov-2021

Subject: Planning Application 2021/92528 Erection of retail development, associated parking, servicing areas and landscaping. Land off, Bankwood Way, Birstall Retail Park, Birstall, Batley, WF17 9DT

APPLICANT

Lidl GB Ltd

DATE VALID

21-Jun-2021

TARGET DATE

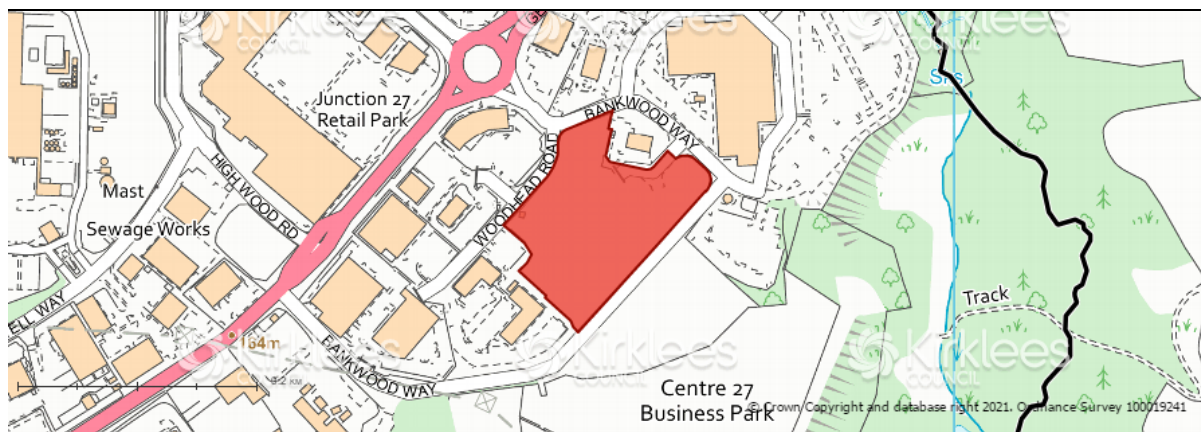
20-Sep-2021

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: Birstall and Birkenshaw

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

Delegate approval of the application to the Head of Development Management to:

1. Refer the application to the Secretary of State under the terms of The Town and Country Planning (Consultation) (England) Direction 2021 because the application is for retail development in excess of 5,000sq m, not in accordance with one or more provisions of the development plan and in an out of centre location;

2. Subject to the Secretary of State not calling the application in on retail grounds, secure the signing of a Section 106 Agreement to provide:

i. £160,000 for a pedestrian improvement scheme on the neighbouring retail park which includes:

- A signalised crossing on Gelderd Road
- New and upgraded pedestrian crossing points within the immediate vicinity of the site

ii. Travel Plan Monitoring fee (£10,000)

iii. Off-site contribution towards biodiversity enhancement (£38,180)

iv. Arrangements for the future maintenance and management of the surface water drainage infrastructure within the site

3. Complete the list of conditions including those contained within this report and issue the decision notice.

In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Strategic Investment shall consider whether 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 Development and Master Planning is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

1.0 INTRODUCTION:

1.1 The application is for a new Lidl supermarket and a Home Bargains store. The application is brought forward to the Strategic Planning Committee because the proposal is for a non-residential development on a site that is over 0.5ha in size. The proposal is also for retail development over 1250 square metres gross floor space and referred up to Strategic Committee because officers are minded to approve. This is in line with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

2.1 The site previously contained a collection of office blocks which formed part of the Centre 27 Business Park. The office blocks were demolished several years ago, and the site cleared and fenced off. There are trees to much of the perimeter of the site.

2.2 The site sits within a wider leisure/retail area. There is an office building abutting the northern boundary and commercial buildings to the south-western boundary. Within the slightly wider vicinity is a cinema and McDonald's restaurant.

2.3 The majority of the site is bound by Bankwood Way and Woodhead Road. There is an existing point of access off Bankwood Way to the northern part of the site, which is shared with an existing office unit (Paradigm House).

3.0 PROPOSAL:

3.1 The application is seeking full planning permission for the erection of retail development, associated parking, servicing areas and landscaping.

3.2 The retail development comprises of two separate retail units – one is to be a Lidl supermarket and the other is to be Home Bargains store.

3.3 The Lidl store would have a gross internal area of 2,231m², with a net sales area of 1,414m².

3.4 The Home Bargains store would have a gross internal area of circa 2,280m², with a net sales area of 2,014m². The Home Bargains store also includes an associated garden centre to the rear which would provide an additional 513m² of retail floor space.

3.5 The development would be served by two points of access. A new access is proposed to be formed off Woodhead Road, which is intended to serve the Home Bargains store, and the existing access off Bankwood Way would be retained and upgraded.

3.6 The internal layout includes a joint servicing area to the rear of the stores and 175 car parking spaces, including 10 accessible spaces, 2 electric vehicle charging spaces, and 9 parent and child spaces. A ramped footpath link from Woodhead Road would also be provided.

3.7 Areas of landscaping, which would include new tree planting, are proposed to the periphery of the car park. Some tree planting is also proposed within the car park.

3.8 An existing substation would be relocated to the north of the site, west of Paradigm House.

3.9 The application form indicates that the development would provide 75 full-time equivalent jobs.

4.0 RELEVANT PLANNING HISTORY:

4.1 There is an extant outline planning permission for four retail units on the site. This approved the principle of the development and the means of access for the site. Details of the application as follows:

2018/92563 Outline application for erection of retail units – Approved by the Strategic Planning Committee (Decision notice dated 9th January 2020).

4.2 Prior to the above application, there were a series of prior approval applications to change the use of the offices to residential; these were all refused. There was subsequently a series of demolition consents granted for the eight office blocks that existed on the site.

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

5.1 The development was the subject of formal pre-application advice. Advice was provided on the scope of the retail impact assessment that would be required to support a future planning application and technical matters, including highways, drainage and ecology.

5.2 During the process of this planning application, additional information has been provided to address consultee comments. This includes:

- Drainage information to respond to comments from Kirklees Lead Local Flood Authority and Yorkshire Water
- Ground contamination information to respond to comments from The Coal Authority and Kirklees Environmental Services
- Vehicle tracking to respond to comments from Highways Development Management
- Security measures to respond to comments from the Police Designing Out Crime Officer

5.3 There have been negotiations in respect of a contribution towards off-site highway works to improve pedestrian connectivity between the site and the wider retail park. This has resulted in an offer of £160,000. This is intended to fund a new pedestrian light-controlled crossing should on A62 Gelderd Road between the Woodhead Road roundabout and the High Wood Road junction plus a package of targeted measures to enhance pedestrian connections in the immediate vicinity of the site. These amount to the formation of 12 dropped kerb locations and 28 tactile paving locations.

5.4 Additional tree planting has been secured to help to compensate for the loss of existing trees surrounding the site. Additional trees are to be provided within the areas of proposed landscaping to the periphery of the car park and some tree planting is included within the car park. A native hedgerow has also been added in place of a knee-high rail to part of the site edge to improve wildlife connectivity whilst also delivering a defensible boundary. A native hedgerow has also been added along the south-eastern boundary of the development where the site abuts Bankwood Way, to soften the appearance of this part 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 statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

6.2 The site is allocated as a Priority Employment Area within the Local Plan.

6.3 Kirklees Local Plan (2019):

- LP1 - Presumption in favour of sustainable development
- LP2 - Place shaping
- LP3 - Location of new development
- LP7 - Efficient and effective use of land and buildings
- LP8 - Safeguarding employment land
- LP13 - Town Centre Uses
- LP20 - Sustainable travel
- LP21 - Highway safety and access
- LP22 - Parking
- LP24- Design
- LP28 - Drainage
- LP30 - Biodiversity and geodiversity
- LP31 - Strategic Green Infrastructure Network
- LP33 - Trees
- LP51 - Protection and improvement of air quality
- LP52 - Protection and improvement of environmental quality
- LP53 - Contaminated and unstable land

6.4 Supplementary Planning Guidance / Documents:

Highways Design Guide SPD

6.5 National Planning Guidance:

Chapter 2 – Achieving sustainable development

Chapter 4 – Decision-making

Chapter 6 – Building a strong, competitive economy

Chapter 7 – Ensuring the vitality of town centres

Chapter 8 – Promoting healthy and safe communities

Chapter 9 – Promoting sustainable transport

Chapter 11 – Making effective use of land

Chapter 12 – Achieving well-designed places

Chapter 14 – Meeting the challenge of climate change, flooding and coastal change

Chapter 15 – Conserving and enhancing the natural environment

6.5 Other material considerations:

Biodiversity Net Gain Technical Note

Planning Practice Guidance

National Design Guide

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised by site notices, neighbour letters and press advert. One public representation has been received, which objects to the application. The representation is summarised as follows:

- Traffic in this area is already bad and the development will make this worse. It is a main route to the major motorways and the development will cause longer delays. The surrounding residential areas are already affected by the

traffic situation around the retail park and the development will exacerbate this.

- Adding a supermarket to this area will add to air pollution because of the additional traffic and a supermarket is also likely to create litter.

7.2 Ward councillors were notified of the application. No written comments have been received however a meeting has been held with Councillor Smaje, attended by planning and highways officers. The meeting was to discuss highway issues within this area, including within the context of the proposed development. Councillor Smaje has raised significant concerns with the traffic situation around the retail park and has expressed her desire to see a coordinated approach to help alleviate this. Councillor Smaje has concerns that the proposed development will add to the existing problems on Gelderd Road and the surrounding area.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

KC Highways Development Management – No objection

National Highways (formerly Highways England) – No objection

Health & Safety Executive - HSE does not advise against the granting of planning permission on safety grounds.

KC Lead Local Flood Authority – No objection subject to conditions

The Coal Authority – Object. Further information required. The Coal Authority does not consider that the information as originally submitted adequately addresses the impact of coal mining legacy. The applicant has submitted further information to address the concerns raised and a response from The Coal Authority is awaited.

8.2 Non-statutory:

KC Planning Policy – No objection on retail policy grounds

KC Environmental Health – No objection subject to conditions

KC Ecology Unit – No objection subject to conditions and an off-site contribution to achieve a biodiversity net gain. A native hedgerow should be incorporated into the layout to improve wildlife connectivity.

KC Trees Officer – Recommends that the car park is redesigned to retain some of the existing boundary trees. Many of these trees are an attractive feature of the locality and their loss would not meet Policies LP24 and LP33.

KC Landscape Officer - There are opportunities for strengthening the landscape edge around the car park boundary to the site with a native mixed hedgerow. A native hedgerow would also help create a more defensible car park, rather than a low knee rail. There are also opportunities for further tree planting. Recommend a condition for full details of the landscaping proposals and a management plan for the maintenance of the soft landscaping for the first five years following completion (and replacement of any species that die).

WY Police Designing Out Crime Officer – Welcomes a number of the proposed security measures however it is advised that Vehicle Height Restrictors should be provided to the car park entrances to deter unauthorised encampments and barriers/gates are added to the rear delivery bay.

Leeds City Council – The applicant’s sequential and retail impact assessment covers Morley, but not Drighlington. Whilst there should be no issue regarding the sequential test not including Drighlington, as it’s unlikely there would be a suitable and available site of this size, there may be an impact on the vitality of the local centre and we would not want this application to undermine that.

Any issues arising from the generated traffic flows associated with the proposals will be constrained within the Kirklees boundary (along Woodhead Road and Bankwood Way) and are unlikely to have any adverse impact upon the operation of the highway network within the Leeds boundary.

Yorkshire Water – Request confirmation that the proposed surface water drainage scheme connects to a watercourse and not to the public sewer network.

WY Archaeology Advisory Service – No objection

9.0 MAIN ISSUES

- Principle of development
- Retail assessment
- Highway issues
- Urban design issues
- Landscape issues
- Drainage issues
- Crime and security
- Planning obligations
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The principle of retail development on the site has already been established. An outline application for four retail units was approved under planning application reference 2018/92563 in January 2020. That permission allows for up to 7,896m² of gross floorspace and limits the sale of convenience goods to no more than 30% of the gross floor space (or 2,369m²). By comparison, the proposed development amounts to 5,023m² of gross floor space.
- 10.2 The site is in within a Priority Employment Area (PEA) in the Local Plan.
- 10.3 Local Plan policy LP8 seeks to safeguard employment land and premises. It states that ‘proposals for development or redevelopment for employment generating uses in Priority Employment Areas will be supported where there is no conflict with the established employment uses in the area’. The definition of ‘employment generating uses’ for the purposes of this policy includes

'enterprises which provide jobs, for example retail, hotel, assembly and leisure and certain non-residential Sui Generis uses (such as clubs, cash and carry businesses and builders merchants)'.

- 10.4 The proposed retail development is an employment generating use as defined in the Local Plan and as such it is accepted as being appropriate in a priority employment area. The principle of the development is therefore in accordance with policy LP8.
- 10.5 The proposal would create new employment opportunities and would support 75 full-time equivalent jobs according to the applicant. The jobs that would be created and the level of inward investment into the district would help to strengthen the local economy and this weighs in favour of the application.
- 10.6 In addition to the above, the application relates to a brownfield site and therefore involves the recycling of previously developed land. This represents an efficient use of land, which is promoted by the NPPF and Policy LP7 of the Local Plan. Furthermore, the development would remediate a contaminated site, which is a further benefit of the proposal.
- 10.7 Based on the above, the principle of retail development on the site is accepted. It is however necessary to consider the specific retail impacts of the proposed development, which is set out in the following section of this report.

Retail assessment

- 10.8 The site is located immediately adjacent to the Junction 27 Retail Park and Birstall Shopping Park which consists of retail warehouse units including an Ikea store and leisure units.
- 10.9 The site is in an out of centre location, located approximately 1.5km north east of Birstall District Centre, 3km to the north west of Batley Town Centre and 5.5km north of Dewsbury Town Centre. Whilst it is adjacent to a retail park, these are not designated in the Local Plan.
- 10.10 Retail is classified as a main town centre use. Given the amount of new retail floorspace being proposed and the site being situated in an out of centre location, the applicant is required to undertake a sequential test and retail impact assessment, as set out in Local Plan policy LP13 (part b and c) and chapter 7 of the NPPF (Ensuring the vitality of town centres).
- 10.11 The applicant has undertaken a sequential test and retail impact assessment, the scope of which has been agreed with the Local Planning Authority. The sequential test and retail impact assessment have been independently assessed by Nexus Planning on behalf of the Local Planning Authority. A summary of the findings of the Council's retail planning advisor are set out below.

Sequential assessment

- 10.12 Paragraph 87 of the NPPF sets out the order of preference in applying the sequential approach. The first preference is for main town centre use development to locate in town centres, followed then by edge of centre locations, and only if no other suitable sites are available should out of centre sites be considered.

- 10.13 Paragraph 88 indicates that, when considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.
- 10.14 In this instance, the application site is out of centre. As such, there is a need to consider in and edge of centre sites, and whether there might be any better connected out of centre sites, as part of the NPPF test.
- 10.15 The applicant has adopted a Study Area which includes Zone 9 from the Kirklees Retail Study as the Primary Catchment Area, and also includes Zones 4, 8 and 10 to form the wider Study Area. This is considered to be a reasonable approach, particularly in light of the nature of the proposal and the areas from which the proposed units are likely to draw their trade.
- 10.16 On the basis of this Study Area, the applicant's sequential search is focused around Batley town centre and Birstall district centre in Kirklees, and Morley town centre in Leeds.
- 10.17 Having reviewed the location of existing foodstores and the geography of the surrounding area, Nexus are satisfied that the applicant's approach is appropriate and that no other centres offer genuine potential to serve a similar catchment area in a similar manner. Accordingly, it is accepted that the three centres identified in the applicant's Planning and Retail Statement appropriately comprise the area of search in respect of sequential alternative sites.
- 10.18 The applicant identifies five potential sites within or on the edge of Batley, Birstall and Morley defined centres. Nexus have reviewed all of the sites and locations considered by the applicant in its submission and do not believe that any one is both available and suitable to accommodate the application proposal. Officers and Nexus are unaware of any other sites which are in a sequentially preferable location relative to the application site and are available and suitable for the proposed development (even when allowing for appropriate flexibility in terms of format and scale).
- 10.19 Given the above, it is concluded that the application proposal conforms to the requirements of the sequential test as articulated by Policy LP13 of the Local Plan and paragraphs 87 and 88 of the NPPF.

Retail impact assessment

- 10.20 Paragraphs 90 and 91 of the NPPF indicate that application proposals for retail and leisure development should be refused planning permission where a significant adverse impact is likely to arise from development. In assessing the significance of impacts arising from development, it is necessary to reflect upon the advice set out in the Town Centres PPG. In this regard, paragraph 017 states that:

'A judgement as to whether the likely adverse impacts are significant can only be reached in light of local circumstances. For example in areas where there are high levels of vacancy and limited retailer demand, even very modest trade diversion from a new development may lead to a significant adverse impact.'

- 10.21 It should also be recognised that impacts will arise with all retail developments, but that these will not always be unacceptable, not least because development often enhances choice and competition. It is therefore necessary to differentiate between those developments that will have an impact and those that will undermine the future vitality and viability of established centres, i.e. have a 'significant adverse' impact.
- 10.22 In this case, it is anticipated that the foodstore will trade most directly against other convenience goods retailers capable of supporting some main food shopping trips within and close to Kirklees Retail Study Zone 9.
- 10.23 The two key impact tests identified by paragraph 90 of the revised NPPF are considered below. The tests relate to:
- the impact of the proposal on existing, committed and planned public and private sector investment in a centre or centres in the catchment area of the proposal; and
 - the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider retail catchment (as applicable to the scale and nature of the scheme).
- 10.24 Nexus have provided a detailed assessment of each of the two strands of the test.
- 10.25 In terms of the first part of the test, Nexus conclude that there is not any town centre investment which would likely be prejudiced as a consequence of the application proposal. The application therefore complies with the first part of the impact test.
- 10.26 With regards to the second part of the test, Nexus do not consider that the resultant impacts on the overall vitality and viability of the defined centres would be at a level which could be considered to be significantly adverse.
- 10.27 Given the conclusions made by Nexus on the sequential and impact tests, it is considered that the proposal complies with Policy LP13 of the Local Plan and guidance in the NPPF.
- 10.28 Furthermore, planning policy is supportive of retail development which improves local customer choice and accords with sustainable development principles, providing no 'significant adverse' impacts occur at town centre locations. Most particularly, this is evident through paragraph 90 of the NPPF which requires a local planning authority to consider changes in consumer choice across the retail catchment area as a whole when determining planning applications for retail uses.
- 10.29 It is accepted that there would be no significant adverse impacts on nearby town centres, and it is acknowledged that the development would improve local customer choice. It would also promote linked trips to other nearby outlets, with associated economic as well as environmental benefits (potential for fewer vehicular trips).
- 10.30 As the proposal is for retail development in an out of centre location and conclusions on the scheme are based on the quantum and format of floorspace proposed, conditions are considered necessary to protect the vitality and viability of town centres should the application be approved. Conditions are considered necessary to restrict the net sales area of the proposed units in

respect of the quantum of convenience and comparison floorspace. In addition, given the nature of the development and the comparable unit sizes in defined centres, it is also recommended that a condition be imposed to restrict future sub-division of the proposed units without approval from the Council, should the intended operators vacate the premises in the future.

Urban design issues

- 10.31 Policy LP24 of the Local Plan states that good design should be at the core of all proposals and this should be promoted by ensuring that the form, scale, layout and details of all development respects and enhances the character of the area. Guidance within the NPPF also seeks to achieve well-designed places (chapter 12).
- 10.32 The site previously contained a group of office buildings which were generally 2 and 3 storeys in height. These have been demolished and the site has been fenced off. There is a substantial number of trees to the periphery of much of the site. The site sits at a slightly lower level to Woodhead Road and slopes downwards towards the south-east where it meets Bankwood Way.
- 10.33 The surrounding area is characterised by a variety of commercial development, including brick-built office buildings, retail warehouse type buildings, a cinema and restaurants. Trees, shrubs and hedges to the boundaries of these premises are characteristic of this part of the retail park.
- 10.34 It is proposed to carry out some engineering works to create a development plateau. This involves raising the level of the ground towards the south-east and lowering the ground adjacent to the north-western boundary. The proposed car park would be set down from Woodhead Road and enclosed by a retaining wall/embankment. A retaining wall is proposed along the south-eastern boundary to Bankwood Way.
- 10.35 The proposed Home Bargains store would be located to the south-west boundary and would be side-on to Woodhead Road. The store would sit at a lower level to this adjacent highway which mitigates the overall height of the unit. The proposed Lidl store would sit perpendicular to Home Bargains and would back onto Bankwood Way. The access to a shared service yard separates the stores. Car parking occupies the remainder of the site with two areas of landscaping to the periphery.
- 10.36 The design of the buildings is typical for this type of use and reflects the standard store designs adopted by the respective operators. The Home Bargains unit is a retail warehouse faced in a mixture of render and cladding, with the materials providing contrasting tones of grey. The Lidl unit is faced in white and grey cladding with glazed curtain walling to the store entrance and incorporates a monopitch roof.
- 10.37 The areas of landscaping to the north-western and north-eastern car park boundaries and the inclusion of some tree planting within the car park help to soften the appearance of the development and are reflective of other nearby developments.

- 10.38 The engineering works to create a development plateau result in a relatively substantial retaining wall along the south-eastern boundary alongside Bankwood Way. The adjacent car park would have a circa 2m-2.5m retaining wall with 1.1m handrail on top. To the rear of the Lidl store the height of the retaining wall increases to almost 3m in height and includes 2m palisade fencing to secure the rear of the store. As such, the Lidl store sits in an elevated position when viewed from Bankwood Way.
- 10.39 Bankwood Way is an unadopted road that links Gelderd Road with Woodhead Road with trees and shrubs on each side of the road. It currently forms a relatively inconspicuous element of the retail park. The area immediately to the south-east of the site, on the opposite side of Bankwood Way, is currently undeveloped but it forms part of the same Priority Employment Area allocation as the application site. It is therefore probable that this neighbouring land will come forward for development in the future which would mean that this becomes a more active part of the retail park.
- 10.40 The boundary treatment to this section of Bankwood Way and the elevated position of the Lidl store mean that the development would be visible from the south-east, although from longer range vistas it would be viewed against the backdrop of the wider retail park which rises up gradually beyond the site. The appearance of the development at road level would be mitigated to an extent by the fact that the retaining wall would be set in from the carriageway by a 1.5m (approx.) strip of grassed verge, with the Lidl store set into the site by a further 1.8m.
- 10.41 To further soften the appearance of this part of the site, the applicant has proposed a native hedgerow in front of the retaining wall along the south-eastern boundary to Bankwood Way. Additionally, the applicant has advised that the 2m security fencing to the rear of the Lidl store can be replaced with some railings at a lower height to help create a more attractive boundary treatment. Furthermore, a condition requiring details of the facing material for the retaining wall is recommended in the interests of visual amenity.
- 10.42 In conclusion, the scale and design of the units are in keeping with the established character of the area, and it is considered that the proposal satisfies policy LP24 of the Local Plan and the guidance contained in part 12 of the National Planning Policy Framework - Achieving well designed spaces.

Highway issues

- 10.43 The site is located within the Birstall retail park which is within 2 distinct areas to the north and south of the A62 Gelderd Road, a very busy arterial road adjacent to the M62 junction 27. The proposed site is located within the southern area of the retail park.
- 10.44 The existing site access arrangement which served the former office units is accessed off Bankwood Way. Bankwood Way directly joins a section of Woodhead Road carrying on to its junction with the A62 Gelderd Road roundabout and also wraps around the rear of the site (southern boundary) to link to its priority junction with the A62 Gelderd Road, some 200m southwest of the Gelderd Road roundabout.

- 10.45 At the point where Woodhead Road meets Bankwood Way, Woodhead Road has a cul-de-sac section approximately 150m in length from its junction with Bankwood Way. Both roads serve various leisure uses including a cinema, restaurants, and a gym.
- 10.46 Vehicular access to the development site would be provided from two separate points, firstly Woodhead Road to the north-west via a new priority-controlled T-junction and secondly, through the existing site access junction off Bankwood Way to the northeast.
- 10.47 In addition, given the level difference between the site and Woodhead Road to the north-west, pedestrian access to Woodhead Road from the site would be provided via steps as well as a ramped footway.
- 10.48 The site on which the retail units are proposed benefits from an extant outline planning permission (application reference 2018/92563) for four A1 non-food retail units and a 305-space shared car park, with access to be taken from Bankwood Way at two separate points.
- 10.49 As part of the extant planning permission, condition 9 requires details to be submitted and agreed for proposed changes to the priorities at the Woodhead Road / Bankwood Way junction. The same changes in priority will also be made as part of the current proposals.
- 10.50 The proposed car park provides a total capacity for 175 spaces, including 10 accessible spaces, 2 electric vehicle (EV) charging spaces and 9 parent & toddler spaces.
- 10.51 As evidence of the provision of car parking for the Lidl store, reference is made to car parking accumulation surveys which have been undertaken at two existing Lidl stores in Sunningdale Road, Balby, Doncaster and Cottingham Road, Hull.
- 10.52 A car parking accumulation for Home Bargains unit has been undertaken using trip rates from the TRICS database.
- 10.53 The largest type of vehicle expected to access the site will be for delivery and servicing movements, which would be a 16.5-metre-long maximum legal length articulated HGV. All delivery and servicing movements will be required to be taken from the Bankwood Way access to the north-east. Vehicle swept path analysis has been undertaken to demonstrate that this existing site access arrangement can safely accommodate turning movements associated with this vehicle, and that the internal site layout is also suitably designed to accommodate the design vehicle.
- 10.54 Six junctions listed below, as well as the proposed site access junction with Woodhead Road, are assessed within the applicant's Transport Assessment.
1. A62 Gelderd Road / Woodhead Road / Holden Ing Way roundabout;
 2. A62 Gelderd Road / Bankwood Way T-junction;
 3. A62 Gelderd Road / Oakwell Way traffic signal junction;
 4. A62 Gelderd Road / High Wood Road traffic signal junction;
 5. Bankwood Way / Woodhead Road T-junction;
 6. Bankwood Way / Existing Site access T-junction

- 10.55 Traffic survey information for these six junctions has been extracted from the previous information submitted in support of the extant permission on the site.
- 10.56 Peak hour traffic flows for each of the above junctions have been extracted from these documents, with the surveys having taken place at varying times in March, October and December 2017.
- 10.57 Due to the nature of the extant permission, all junctions were surveyed and modelled during the weekday (Friday) evening peak period and during the Saturday midday peak period. The identified peak hours of the highway network were 4:00pm – 5:00pm on the Friday evening and 1:00pm – 2:00pm for the Saturday afternoon period
- 10.58 As far as this assessment is concerned, morning and evening peak traffic flows at a future year 2026 have been determined using 'Tempro' to provide the peak hour growthed traffic flows to the future year 2026.
- 10.59 The extant permission on the site associated with the 4 proposed retail units have been added to form part of the base line assessment. The committed development flows have been added to the 2026 growthed flows to represent traffic flows on the network in the 2026 base scenario.
- 10.60 The 2026 base peak hour operational characteristics of the 6 junctions have then been assessed. The applicant's Transport Assessment concludes that all the junctions within the study area are expected to continue operating within capacity during the 2026 base scenario, except the A62 Geldard Road/Bankwood Way roundabout junction and the junction of Woodhead Road and Bankwood Way where the changed priorities are proposed.
- 10.61 Mitigation measures were agreed as part of the extant planning permission to offset the impact of that development. These measures were:
1. Change Priority of the Woodhead Road/Bankwood Road junction to prevent queuing back, and subsequently blocking the A62 Gelderd Road roundabout.
 2. Provide directional signage within the site and upon egressing to direct drivers travelling towards Birstall/Batley to turn right out of the Bankwood Road access junction and to join the A62 Geldard Road at its priority-controlled junction with Bankwood way to the southwest of the site. This would improve development impact at the A62 Gelderd Road roundabout and improve its operation.
- 10.62 Highways Development Management have assessed the proposals including the applicant's Transport Assessment. Highways Development Management accept the principle of the two access points. Revised vehicle tracking information was requested and this is now considered acceptable. The level of parking is also considered to be acceptable.
- 10.63 The same mitigation measures as the extant permission, which are intended to offset the impact of the development on the A62 Gelderd Road roundabout (as detailed above), are to be secured through conditions. As such, it is considered that the traffic associated with the development can be adequately accommodated on the local highway network. Furthermore, National Highways (formerly Highways England) has been consulted and no objection has been raised.

- 10.64 The previous application secured a financial contribution towards a suite of pedestrian improvements within the vicinity of the site to improve connectivity with adjacent premises. The contribution amounted to £97,000 and included new pedestrian crossing points, upgrading of existing crossing points and new and upgraded pedestrian traffic islands across the retail park.
- 10.65 Officers have considered this issue as part of the current application. It is considered that improving pedestrian connectivity would be best served by a new pedestrian light-controlled crossing along Geldard Road between Woodhead Road/A62 roundabout junction and the High Wood Road junction to strengthen pedestrian connectivity between the northern and southern sides of the retail park and public transport links. Such a crossing would cost £80,000 plus a 15 year commuted sum of £30,000-40,000.
- 10.66 The applicant has proposed a contribution of £160,000 towards pedestrian improvements. This is intended to deliver the light-controlled crossing on Gelderd Road and a set of pedestrian improvements within the immediate vicinity of the site, specifically between the site access and the Geldard Road roundabout and to the four arms of the roundabout. The proposed scheme of improvements amounts to 12 dropped kerb locations and 28 tactile paving locations at the following locations:
- Dropped kerbs (2 No.) and tactile paving (2 No.) at the Bankwood Way / Site Access junction
 - Tactile paving (2 No.) at the existing dropped kerb crossing on Bankwood Way located between the site access junction and Woodhead Road
 - Dropped kerbs (6 No.) and tactile paving (6 No.) at the Woodhead Road / Bankwood Way revised priority junction
 - Tactile paving (2 No.) at the western junction between Bankwood Way and A62 Gelderd Road (across the Bankwood Way arm), and
 - Tactile paving across all 4 arms (16 No.) of the A62 Gelderd Road / Woodhead Road / Holden Ing Way roundabout, including dropped kerbs (4 No.) on the A62 Gelderd Road eastern arm.
- 10.67 The pedestrian improvement proposals are intended to meet the likely pedestrian desire lines to / from the site within the retail park.
- 10.68 A financial contribution to fund the delivery of a scheme of pedestrian improvements is considered necessary to make the development acceptable in planning terms. Furthermore, the proposed offer of £160,000 and the intended use of the contribution as outlined above, would meet the tests for planning obligations in that it would be directly related to the proposal and fairly and reasonably related in scale and kind to the proposed development.
- 10.69 The application is supported by Travel Plans for the proposed stores. These are accepted and a contribution towards Travel Plan monitoring is recommended. The required contribution is £10,000 i.e. £2,000 per annum for a period of 5 years.
- 10.70 Subject to outstanding matters, the application is considered acceptable in highway safety terms and accords with policies LP20, LP21 and LP22 of the Kirklees Local Plan and guidance in the NPPF.

Flood risk and drainage issues

- 10.71 The site is in flood zone 1 and is therefore categorised as being at low risk of flooding from main river sources.
- 10.72 The proposed drainage strategy is for surface water to be attenuated on site within a tank below the car park and for the attenuated flows to discharge into an existing culvert that crosses the site. This is acceptable to Kirklees Lead Local Flood Authority (LLFA). Evidence to demonstrate that the culvert eventually discharges to a watercourse has been provide and accepted by the LLFA. Yorkshire Water have requested confirmation that surface water discharges to a watercourse and not to the public sewer network.
- 10.73 A new foul water system to serve the development is proposed. The foul drainage will comprise underground piped drainage and will discharge into the public sewer on Bankwood Way.
- 10.74 Information has been provided regarding overland flow routing, which indicates where water would travel in the event that the proposed system is overwhelmed in an extreme rainfall event. This shows that water would flow towards one of the landscaped areas and a corner of the service yard. Kirklees LLFA accept the submitted flood exceedance drawing.
- 10.75 The application is considered to be acceptable in flood risk and drainage terms and in accordance with policies LP27 and LP28 of the Kirklees Local Plan and guidance in the NPPF. A s106 undertaking to maintain the surface water drainage system is necessary.

Trees and ecology

- 10.76 There is a substantial number of trees that exist to the periphery of the site which are proposed to be removed. None of the trees are protected but consideration has been given to whether some of these trees could be retained around the car park. The number of parking spaces proposed is at the lower end of what would normally be expected for a development of this type and scale and so reducing the size of the car park is not considered to be appropriate. Instead, the applicant has proposed to increase the number of trees to the landscaped areas to the edge of the car park adjacent to Woodhead Road and Bankwood Way. Some tree planting has also been included within the car park itself.
- 10.77 The above amendments to the landscaping scheme are an improvement and help to mitigate the loss of the existing trees to an acceptable degree when the development is weighed alongside the wider benefits of the scheme, as detailed in this assessment.
- 10.78 Kirklees Biodiversity Net Gain Technical Advice note outlines that a development should achieve no net losses to woodland cover and should achieve an overall biodiversity net gain of 10%. The proposal results in a net loss of woodland cover and it is not considered possible to compensate for this any further on site. As such, a commuted sum is sought from the development to facilitate woodland planting in an off-site location. Based on the scheme as originally submitted, a commuted sum of £38,180 is required to enable to Council to undertake biodiversity net gain off site. The applicant has however

provided some additional tree and hedgerow planting. These changes to the landscaping scheme would reduce the off-site contribution. A updated calculation will be provided on the basis of the revised landscaping scheme.

- 10.79 The additional planting provided would enhance the biodiversity of the site, particularly the connectivity of the site to the nearby Kirklees Wildlife Habitat Network. The native hedgerows would help to provide similar benefits and functions to those currently provided by the existing trees.
- 10.80 In terms of the ecological impacts of the proposals, the ecological impact assessment submitted with the application concludes that there would no significant impacts, provided that a series of recommended mitigative measures be provided. These can be secured through a BEMP (Biodiversity Enhancement Management Plan) and CEMP (Construction Environmental Management Plan (for Biodiversity)) and relevant conditions are therefore recommended.
- 10.81 Subject to the aforementioned financial contribution and planning conditions, the development is considered to comply with Policies LP30, LP31 and LP33 and guidance in the NPPF.

Contamination (including coal mining legacy)

- 10.82 The application site falls within the defined Development High Risk Area, therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.
- 10.83 The Coal Authority records indicate that the plotted position of a recorded mine entry (adit) is within the north-eastern part of the application site. The Coal Authority hold no details of any past treatment of this former coal mining related feature. In addition, the site lies in an area where underground coal mining activity has taken place at shallow depth and where further historic unrecorded shallow coal mining is likely to have taken place.
- 10.84 The planning application is accompanied by a Combined Phase 1 & Phase 2 Ground Investigation Report (12 May 2021, prepared by Curtins). Based on a review of coal mining and geological features information, previous reports prepared for the site and further recent intrusive investigations, the report highlights that mining legacy features along with the presence of deep backfill material and landfill waste represent key constraints to the proposed development. However, the Coal Authority does not consider that this adequately addresses the impact of coal mining legacy on the proposed development. The Coal Authority has therefore raised an objection to the proposal and considers that the applicant needs to revise and resubmit the report, taking into account matters of surface extraction, shallow mine workings, the recorded adit, mine gas and the proposed sustainable urban drainage system.
- 10.85 The applicant has recently submitted additional information which seeks to respond to The Coal Authority's concerns. A further response from The Coal Authority is awaited and an update will be provided on this issue within the published agenda update.

10.86 Kirklees Environmental Services recommend conditions to address land contamination.

Crime and security

10.87 The Police Designing Out Crime Officer welcomes a number of the proposed security measures, such as hostile vehicle mitigation measures, security glazing to the store frontages and measures to secure the car park perimeter.

10.88 The Designing Out Crime Officer has recommended that vehicle height restrictors are also added to the car park entrances to deter unauthorised encampments.

10.89 The applicant is reluctant to add vehicle height restrictors to the car park at this stage. They have indicated that if unauthorised encampments became an issue, then they would install measures to prevent this. There do not appear to be any vehicle height restrictors to the outdoor car parks serving other premises across the retail park and there is nothing to indicate that unauthorised encampments are a particular issue within the retail park. In the circumstances, it is considered that it would be unreasonable to insist that the proposed development incorporates vehicle height restrictors.

10.90 It has also been recommended that gates are provided across the access road between the two proposed units which serves the delivery/loading area. This is to enhance the security of this area given that it is relatively secluded. The applicant does not wish to provide a barrier to the loading area because it would create practical difficulties. Lidl have explained that full flexibility is required because deliveries would take place at all times of the day and night and often involve third party delivery drivers. Managing these movements into the loading area would therefore be a challenge and would be further complicated by the separate requirements of Home Bargains. The applicant has however indicated that they would be willing to provide alternative security measures to the delivery/loading area, such as CCTV. A condition is recommended to secure details of security measures for this part of the site.

Planning obligations

10.91 The following planning obligations are sought from this development and reflect those discussed earlier within this appraisal.

- £160,000 towards off-site pedestrian improvements
- £38,130 towards off-site biodiversity enhancement
- £10,000 for Travel Plan monitoring
- Arrangements for the future maintenance and management of the surface water drainage infrastructure within the site

Representations

10.92 One public representation has been received. This raises an objection on the grounds of the impact of additional traffic on the highway network and air pollution. Concerns are also raised with potential litter from the supermarket.

10.93 Highway matters and air quality matters have been addressed within this appraisal.

Other Matters

- 10.94 The site is within the middle and outer zone of a COMAH site (Control of Major Accident Hazards), with the majority of the site being in the middle zone. As such, the Health and Safety Executive (HSE) have been consulted via the PADHI system (Planning Advice for Development adjacent Hazardous Installations). The HSE does not advise, on safety grounds, against the granting of planning permission in this case.
- 10.95 Environmental Services recommend a condition to mitigate the impact of the development on air quality. A condition is also recommended to restrict the noise from fixed plant and equipment and for details of the external lighting.
- 10.96 The proposed development has been screened as to whether an Environmental Impact Assessment (EIA) is required, with the conclusion reached that the development does not meet the threshold for an EIA.

Climate change

- 10.97 On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target, however, it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.
- 10.98 The development relates to a brownfield site and therefore represents the efficient use of land.
- 10.99 The development will provide a contribution which will promote pedestrian connectivity across the retail park and to public transport links. As part of this application, Travel Plans to encourage the use of low emission forms of transport have been provided and a contribution is to be secured regarding the monitoring of the Travel Plans. The application indicates that two electric vehicle charging points are to be provided however a condition is recommended requiring details of a scheme to ensure an adequate number are provided along with a suitable specification for the recharging points. The development provides replacement trees and an off-site contribution towards biodiversity enhancement, including woodland planting. These measures will help to mitigate the impact of this development on climate change.

11.0 CONCLUSION

- 11.1 The proposal represents a significant inward investment within Kirklees which is projected to generate 75 full-time equivalent jobs within this Priority Employment Area allocation. The development will therefore contribute to the delivery of the job requirements set out in the Local Plan, in accordance with policy LP3.

- 11.2 The proposal would also regenerate a vacant piece of brownfield land, remediating an area where there are known contamination and coal mining legacy issues (subject to final confirmation from The Coal Authority).
- 11.3 The retail impacts of the scheme have been independently assessed and it has been concluded that the development would not result in any significant adverse impacts on the vitality of nearby town centres. The development would help to increase consumer choice.
- 11.5 It is considered that the traffic associated with the proposed development can be adequately accommodated on the highway network without resulting in any significant adverse effects.
- 11.6 The proposal would deliver wider benefits through a substantial pedestrian improvement scheme within the vicinity of the site which would help to promote linked trips across the retail park on foot. The development would also deliver a biodiversity net gain through a financial contribution that would help towards Council tree planting initiatives.
- 11.7 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.
- 11.8 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 Planning and Development)

1. Time limit (3 years)
2. Development in accordance with the approved plans
3. Restriction on the net sales area of the stores and the proportion of convenience and comparison floorspace to that proposed within the application.

Lidl store:

Net sales area of 1,414m²
80% convenience goods (equating to 1,131m²)
20% comparison goods (equating to 283m²)

Home Bargains store:

Net sales area of 2,014m² (plus the associated garden centre)
45% convenience goods (equating to 906m²)
55% comparison goods (equating to 1,108m²).

4. Restriction on the sub-division of the units
5. Detailed junction design for points of access
6. Detailed scheme for proposed change to the road priorities on Woodhead Road/Bankwood Way
7. Scheme for highway directional signage
8. Detailed drainage design including surface water attenuation and petrol interceptor for the car park

9. Temporary drainage measures for construction
10. Biodiversity Enhancement Management Plan (BEMP)
11. Construction Environmental Management Plan for biodiversity (CEMP)
12. Contamination/remediation conditions
13. Scheme for provision of electric vehicle recharging points
14. Management plan for landscaped areas
15. Detailed design of highway retaining walls
16. Facing materials of the retaining wall to the south-eastern boundary alongside Bankwood Way
17. Security measures for the delivery/loading area
18. Restriction on noise from fixed plant and equipment
19. Construction management plan for amenity and highways
20. Overland flow routing (drainage/flood risk)
21. Air quality mitigation
22. External lighting scheme

Background Papers:

Application and history files.

Website link:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f92528>

Certificate of Ownership – Certificate B signed: Notice served on Mr Henry Butt.

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Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 18-Nov-2021

Subject: Planning Application 2019/94165 Demolition of existing mills and associated structures, erection of five commercial units and associated yard works Butt End Mills, Chadwick Lane, Lower Hopton, Mirfield, WF14 8PW

APPLICANT

Carr, T V Co. Partnership

DATE VALID

31-Dec-2019

TARGET DATE

31-Mar-2020

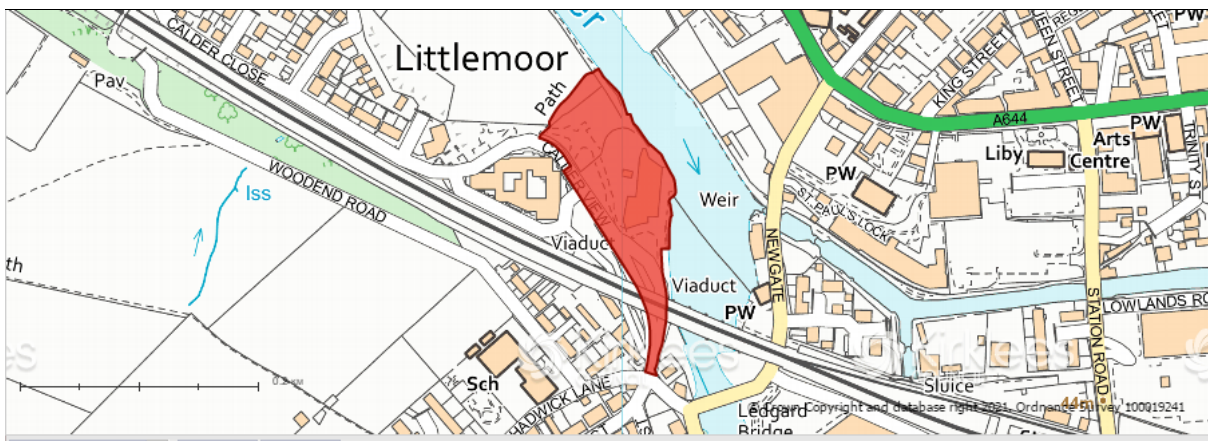
EXTENSION EXPIRY DATE

31-Mar-2021

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

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report and to secure a Section 106 Agreement to cover the following matters:

1. Off-site contribution towards biodiversity enhancement to secure a net gain of 10% (£74,543)
2. Contribution towards flood recovery scheme (£10,000)
3. Formation of the proposed riverside path and the dedication of this land to secure public access.

In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Planning and Development shall consider whether 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 Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

1.0 INTRODUCTION:

- 1.1 The application is for the demolition of an existing mill and the erection of five commercial units. The application is brought forward to the Strategic Planning Committee because it is for non-residential development on a site that is over half a hectare in size. This is in line with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application relates to a brownfield site off Chadwick Lane, Lower Hopton, Mirfield.
- 2.2 The southern part of the site contains Butt End Mills, which is a sprawling structure comprising of single, two and three storey elements. The mill has its own parking area to the south. The premises are used by a small number of light industrial type businesses.
- 2.3 There was previously a factory building in the northern part of the site, which was demolished around 2018/early 2019. This part of the site is partially enclosed by a stone wall and has its own points of access.
- 2.4 Immediately to the east of the site is the River Calder. To the west of the site is a residential care home with a recent housing development lying beyond to the north west.
- 2.5 Access to the site is from Chadwick Fold Lane, with egress via Calder View. These roads split traffic where they pass below a railway bridge. Both roads are unadopted, although there is an application with the Council for the adoption of the roads in connection with the new residential development to the north-west of the site which has been completed by Gleeson Homes.

3.0 PROPOSAL:

- 3.1 It is proposed to demolish the existing mill and erect five commercial units with a yard for loading, unloading and parking.
- 3.2 The application form specifies that the commercial units would be for light industrial use. Such use falls within use class E(g). This would include the research and development of products or processes, or any industrial process which can be carried out in any residential area without causing detriment to the amenity of the area.
- 3.3 A row of four adjoining units are proposed in the eastern part of the site along with a single detached unit perpendicular to this row.
- 3.4 The units would be two storeys in height and faced in buff brick with profiled metal cladding above. The units would have a mono-pitch roof constructed of grey profiled metal sheeting.
- 3.5 A total of 53 parking spaces are proposed and a turning/loading area would be provided in front of the units.
- 3.6 A new point of access is proposed off Calder View and this would form the sole point of access for the development.
- 3.7 The layout includes the provision of a riverside path along the eastern boundary of the site as well as areas of soft landscaping.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 The application site formed part of a much larger site that was the subject of planning application 2001/92359 for outline application for residential and employment development with access and associated works. This application was allowed on appeal. There has been a subsequent discharge of conditions application (2009/90120) and compliance with conditions application (2012/91949) pertaining to this application.

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

- 5.1 The proposal was the subject of formal pre-application advice. Advice was provided on flood risk issues, particularly with regards to compliance with Policy LP27 of the Local Plan and the scope of the sequential test. Advice was also provided on highway matters, ecology, noise, contamination, the strategic green infrastructure network and crime prevention.
- 5.2 As part of the application process the applicant has submitted a range of additional and amended information to address consultee responses. This includes:
 - Revised Flood Risk Assessments to satisfy the Environment Agency
 - Additional drainage report
 - Flood evacuation plan
 - Ecological information including Ecological Impact Assessment, biodiversity net gain calculation and bat survey

- Layout amendments to address Highways comments, including removing one of the proposed points of access (layout now has a single vehicular access). Submission of vehicle swept paths.

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 statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

6.2 The site is unallocated in the Kirklees Local Plan.

6.3 Kirklees Local Plan (2019):

LP1 – Presumption in favour of sustainable development

LP2 – Place shaping

LP3 – Location of new development

LP7 – Efficient and effective use of land and buildings

LP20 – Sustainable travel

LP21 – Highway safety and access

LP22 – Parking

LP24 – Design

LP27 – Flood risk

LP28 – Drainage

LP30 – Biodiversity and geodiversity

LP31 – Strategic Green Infrastructure Network

LP32 – Landscape

LP33 – Trees

LP35 – Historic environment

LP51 – Protection and improvement of local air quality

LP52 – Protection and improvement of environmental quality

LP53 – Contamination

LP74 – Strategic Green Infrastructure (Mirfield Promenade)

6.4 Supplementary Planning Guidance / Documents:

Highways Design Guide SPD

6.5 National Planning Guidance:

Chapter 2 – Achieving sustainable development

Chapter 4 – Decision-making

Chapter 6 – Building a strong, competitive economy

Chapter 9 – Promoting sustainable transport

Chapter 11 – Making effective use of land

Chapter 12 – Achieving well-designed places

Chapter 14 – Meeting the challenge of climate change, flooding and coastal change

Chapter 15 – Conserving and enhancing the natural environment

Chapter 16 – Conserving and enhancing the historic environment

6.6 Other material considerations:

Biodiversity Net Gain Technical Note
Planning Practice Guidance
National Design Guide

7.0 PUBLIC/LOCAL RESPONSE:

7.1 No public comments were received in response to the publicity of the application.

7.2 Mirfield Town Council – No comments received

7.3 Councillor Bolt – As a current/former industrial area I look forward to seeing comments from highways, any suggestions on access during flooding etc. I guess the Environment Agency and Lead Local Flood Authority will recommend building on levels above the known flood heights.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

KC Highways Development Management – No objection

KC Lead Local Flood Authority – No objection to the proposed drainage details however the submitted Flood Evacuation Plan is considered to be inadequate.

The Environment Agency – No objection subject to the development being carried out in accordance with the submitted FRA, including minimum finished floor levels.

8.2 Non-statutory:

KC Ecology – Conditions are required for a BEMP (Biodiversity Enhancement Management Plan) to deliver on-site ecological mitigation and a CEMP (Construction Environmental Management Plan (for Biodiversity) to mitigate the impact of construction. A condition is also required to provide a sensitive lighting scheme to ensure the recommendations of the submitted Ecological Impact Assessment are implemented. The development is not delivering a 10% biodiversity net gain and so an off-site contribution is required; based on the scheme as it currently stands, this would be £74,543. However, this would be reduced subject to confirmation of a final landscaping scheme and any other additional on-site biodiversity enhancement that could be provided, such as enhancements along the edge of the River Calder which would improve the post-development score significantly whilst protecting the connectivity of the river.

KC Environmental Services – No objection subject to conditions to address contaminated land and conditions to control hours of use, noise, artificial light and construction working. Recommend that electric vehicle recharging points are provided.

KC Trees – No objection subject to condition

KC Conservation and Design – The applicant’s heritage statement is not in line with published guidance, which impacts of the ability of the Local Planning Authority to make an informed assessment. The applicant should be encouraged to reconsider options for retaining and re-using the existing building, either in whole or part; this would be a more sustainable use of resources and would retain some of the local character and context.

Yorkshire Water – No objection subject to conditions

WY Police Designing Out Crime Officer – No objections raised. Advice provided on suitable security measures.

9.0 MAIN ISSUES

- Principle of development
- Flood risk
- Urban design and heritage issues
- Residential amenity
- Highway issues
- Strategic Green Infrastructure Network
- Drainage issues
- Ecology and trees
- Planning obligations
- Other matters
- Climate change

10.0 APPRAISAL

Principle of development

- 10.1 The site is unallocated in the Kirklees Local Plan and is an established commercial site. The site currently contains a mill building in the southern part that is occupied by a small number of businesses and a small factory building occupying the northern part of the site, although this was demolished a few years ago. The principle of the proposed development is therefore consistent with the land’s established use.
- 10.2 The proposal involves the recycling of previously developed (brownfield) land. The proposal therefore represents an efficient use of land, which is supported by Policy LP7 of the Local Plan and guidance in the NPPF. This further supports the principle of the proposed development.
- 10.3 The site is however located within Flood Zone 3 on the Environment Agency’s Flood Map for Planning, which means it is at the highest risk of flooding. This constraint heavily influences the overall principle of development. Flood risk is discussed within the following section.

Flood risk

- 10.4 The Environment Agency identifies the site as being within Flood Zone 3 (high risk). The Calder Catchment Strategic Flood Risk Assessment (SFRA) provides more detailed flood risk information including identifying which parts of flood zone 3 are within the functional floodplain, which is classified as flood zone 3b.

- 10.5 The SFRA and Policy LP27 of the Local Plan provides a distinction between flood zone 3b (functional floodplain) and land that has the same risk of flooding as flood zone 3b but has already been developed - such land is classified as flood zone 3ai.
- 10.6 The proposal site is classified as flood zone 3ai because it is developed land.
- 10.7 Policy LP27 sets out how development proposals in flood zone 3ai will be assessed. Proposals within flood zone 3ai will be assessed using criteria in national policy for flood zone 3a but with additional restrictions to reflect the higher risk. It allows for 'less vulnerable' uses provided that the sequential test has been passed and where redevelopment of a site provides buildings with the same or a smaller footprint.
- 10.8 The proposed use is classed as 'less vulnerable' and so can be accepted in principle provided that the sequential test is satisfied and subject to the footprint of the proposed commercial units being no larger than that of the building(s) that are to be replaced.
- 10.9 Flood mitigation measures such as compensatory storage must be provided and development will not be permitted on any part of the site which performs a functional floodplain role, as identified through a site-specific Flood Risk Assessment.
- 10.10 Development should also meet the following criteria:
- Development should result in no net loss of floodplain storage
 - Development should not impede water flows
 - Development should not increase flood risk elsewhere.

Sequential test

- 10.11 Officers have previously agreed the parameters of the sequential test with the applicant. It was agreed that the search area could be limited to Mirfield on the basis that the proposed units are intended to house some of the businesses that currently occupy the site and there is a need for these businesses to continue to operate from the Mirfield area.
- 10.12 The applicant has submitted a sequential assessment of other potential alternative sites within Mirfield. No alternative sites have been identified as being suitable and available. Officers accept that the sequential test has been passed.
- 10.13 Once the sequential test has been passed, it is necessary to apply the exception test.
- 10.14 The application of the exception test should be informed by a site-specific flood risk assessment. For the exception test to be passed it should be demonstrated that:
- a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and
 - b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

- 10.15 Both elements of the exception test should be satisfied for development to be permitted.
- 10.16 There are clear economic benefits to the development in terms of providing modern, purpose built commercial floor space which would be attractive to start-up businesses as well as established businesses that are wanting to relocate or expand. This in turn would help to support job opportunities and economic growth in the district.
- 10.17 The applicant has indicated that the development would support 35 full-time jobs. This level of employment is consistent with the Homes and Communities Agency's Employment Density Guide (3rd edition, November 2015), which suggests that a development of this size would be expected to support approximately 33 full-time members of staff.
- 10.18 There are also environmental benefits in that the proposal would regenerate some partially derelict land and buildings.
- 10.19 The application is supported by a FRA which details a range of flood mitigation measures, including minimum finished floor levels, raised yard and car park areas and flood resistant and resilient construction techniques incorporated into the design of the buildings. The Environment Agency raises no objection to the development provided these measures are incorporated.
- 10.20 On the basis of the above, it is considered that the development provides wider sustainability benefits that would outweigh the risk of flooding and it has also been demonstrated that the development would be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere.

Building footprint

- 10.21 Policy LP27 does not allow for any increase in building footprint on sites that are being redeveloped and the supporting text encourages a reduction in footprint.
- 10.22 In this case the existing building comprises Butt End Mills. There was also a small factory building in the northern part of the site that was removed at some point between June 2018 and April 2019. It is considered reasonable for the footprint of the factory building to be included within the 'existing' footprint given that it had been present on the site up until shortly before this application was submitted.
- 10.23 Information submitted in support of the application confirms that the new units do not have a footprint greater than the existing mill and previous factory combined. The application therefore accords with Policy LP27 in this regard.
- 10.24 In conclusion, notwithstanding the risk of flooding to the site, it is considered that the principle of development can be accepted in this location. This is because the risks can be mitigated to an acceptable degree and the residual risk is outweighed by the economic benefits.

Flooding of the access roads

- 10.25 Officers have also given consideration to the issue of flooding on the access roads serving the site. The vehicular approach to the site is via Calder View and the exit is via Chadwick Fold Lane. These roads pass through separate arches below a railway bridge. A third archway provides pedestrian access. It is known that flooding below the railway bridge occurs with some frequency and sometimes to a considerable depth during significant rainfall events. Calder View is the road that is most affected because it is at the lowest level.
- 10.26 These accesses to and from the site are unadopted. They currently serve a residential care home and a new residential development of some 99 dwellings as well as Butt End Mills. The Council is in negotiations with the developer of the dwellings to secure the adoption of these roads. As part of the agreement, several flood mitigation measures are intended. These include works to fit a non-return valve to an outfall pipe below the railway bridge, the provision of telemetry signage to warn drivers when flooding occurs below the railway bridge, and the adoption of an emergency access route to the south-west of the access roads which is at a higher level and would provide dry egress during a flood.
- 10.27 It is not considered that there are any additional off-site flood mitigation works that could be provided over and above those due to be delivered through the ongoing Section 38 (road adoption) process, and which would be proportionate to the scale and nature of the proposed development.
- 10.28 It is recognised however that the proposal would intensify the use of a problematic access. Whilst it is not considered possible for this application to provide measures that would reduce the frequency or severity of flooding below the railway bridge, it is considered reasonable and necessary for the development to contribute towards scheme that would help to mitigate the effects of flooding through a commuted sum for the clean-up costs following flood events. This would help to get the access roads operational again following a flood.
- 10.29 The Council's Streetscene service have advised that the clean-up cost of a flood event would be around £200, which would involve a road sweeper operating for around two hours.
- 10.30 The road below the bridge regularly floods throughout the year to differing degrees. The most recent known flood incident occurred on 1st November 2021. The most severe flood events, where the river overtops the bank, is estimated to occur once every two years.
- 10.31 It is considered that the development should provide a contribution of £10,000. This would equate to approximately five clean-up operations a year for ten years. Such a contribution is considered 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.

Flood evacuation

- 10.32 The applicant has provided a flood evacuation plan which principally covers flood warning processes and procedures and indicates pedestrian evacuation routes.
- 10.33 Kirklees Lead Flood Authority (LLFA) have raised concerns with the applicant's flood evacuation plan because it is not considered to adequately address dry access from the site for pedestrians in extreme events. The LLFA have recommended that a raised walkway is incorporated into the layout that would be above the estimated maximum level of flooding in the car park (700mm). It has also been suggested that mezzanine floors are provided within the units to provide safe refuge.
- 10.34 The applicant has advised that a mezzanine level could be added to the units but does not consider that it is feasible to provide an elevated walkway feature into the layout. Such a feature would impact on the proposed car park, would have to be designed so as not to impede the overland flow of water, be able to extend to a suitable dry area (which would be towards the residential development to the north-west and outside of the site boundary) and be of a suitable design in visual amenity terms.
- 10.35 The challenge of providing a suitable raised walkway is recognised and on balance it is considered that the inclusion of mezzanine floors, which would provide dry refuge in a sudden and extreme flood event, represents an acceptable solution. An amended floor plan showing the inclusion of mezzanine floors is to be submitted.

Conclusion on flood risk

- 10.36 This is a previously developed site that is at high risk of flooding. The development would effectively replace the existing mill with buildings that are far better able to withstand the effects of flooding through a range of flood mitigation measures, including raised finished floor levels. Further measures to mitigate the effects of flooding are to be provided through mezzanine floors and a contribution towards a flood mitigation scheme intended to address the after-effects of flooding on the access road. The application is considered to comply with Policy LP27 of the Local Plan and guidance in the NPPF.

Urban design and heritage issues

- 10.37 Policy LP24 of the Local Plan states that good design should be at the core of all proposals, and this should be promoted by ensuring that the form, scale, layout and details of all development respects and enhances the character of the area. Guidance within the NPPF also seeks to achieve well-designed places (chapter 12).
- 10.38 The railway bridge to the south of the application site is a Grade II listed structure and the canal lock to the north-east is also Grade II listed. It is therefore necessary to consider the impact of the development on the setting of these designated heritage assets. Policy LP35 of the Local Plan and chapter 16 of the NPPF are relevant in this regard.

- 10.39 The development involves the demolition of the existing mill. It is recognised that this mill has a degree of architectural and historic interest that would be lost. The mill is however in a somewhat dilapidated state with parts of the mill in very poor condition. The condition of the mill serves as an impediment to its conversion and the layout of the building is likely to make it unsuitable for most modern business practices. The existing mill would also be at greater risk of flooding than the proposed units, which would be set above the existing ground level of the mill. The risk posed by flooding to the mill is likely to make its conversion unattractive to any developer and unattractive to potential occupiers. In the circumstances, officers accept the loss of the mill. Material from the mill could be reclaimed, which would help to offset the environmental impact of the new development.
- 10.40 The general scale and form of the proposed units is typical for this type of development, although the proposed use of materials elevates the overall quality of design. The units have a buff brick plinth with profiled metal cladding above, with the brickwork extending upwards in specific places. Two different shades of grey are proposed for the metal cladding along with areas of glazing. This creates contrasting elements that provides visual interest. This is important given the proposals would form a substantial block of development and would be a visible from the river as well as nearby residential development.
- 10.41 The scheme provides areas of soft landscaping, including a hedge to the eastern and north-western boundaries and tree planting within the northern and southern parts of the site. This would help to soften the appearance of the development. A planting specification for the proposed landscaping is recommended. It is worth noting as well that the applicant is undertaking a programme of tree planting outside of this application within the land to the north of the site which is within their ownership (and shown within the blue line on the submitted location plan); this is intended to provide ecological, environmental and flood mitigation benefits.
- 10.42 The site layout plan indicates that a fence would be provided to the site frontage, although design details have not been provided. Details of the boundary treatment can be secured by condition, along with details of the bin store that lies to the front of the site.
- 10.43 The proposed layout incorporates a buffer to the adjacent river through the provision of a section of riverside pathway (discussed in more detail later in this appraisal).
- 10.44 Officers have considered the impact of the proposals on the setting of the nearby listed railway bridge and canal lock. The railway bridge is approximately 50m to the south of the site and the lock is approximately 100m to the east of the site across the river/canal basin. The lock is the transition point from river to canal. The basin has a commercial setting with industrial buildings and new bridge on its edges.
- 10.45 The proposals would have an impact on the setting of these heritage assets and would result in the loss of some of the visual connections between the mill and the transport network that served it. The mill is however in a poor state of repair, which detracts from the character of the area. Turning to the proposed new buildings, their scale and design along with the proposed landscaping are such that the development would not significantly harm the setting of the identified heritage assets in officers' opinion.

10.46 In summary, it is considered that the proposal would provide a high quality development that would sit comfortably within the surrounding context of modern residential development to the north west and the established mixed development on the opposite side of the river. The development is considered to comply with Policies LP24 and LP35 of the Kirklees Local Plan and guidance in the NPPF.

Residential Amenity

- 10.47 The application site lies in close proximity to residential development, including a care home.
- 10.48 The proposals are for light industrial units which would fall within Use Class E(g). These are uses which can be carried out in a residential area without detriment to its amenity, including industrial processes. The principle of light industrial use is therefore considered acceptable in a residential area.
- 10.49 Kirklees Environmental Services have been consulted on the application. To mitigate the impact on residential amenity, conditions are recommended to restrict the hours of use, secure the noise mitigation measures as detailed within the applicant's noise report, and to secure details of any external lighting for the development.
- 10.50 It is recommended that the proposed hours of use are restricted to 0800 to 1800 Monday to Friday and 0800 to 1300 on Saturdays, with no activities on Sundays or Bank Holidays (restrictions apply to deliveries to and dispatches from the units).
- 10.51 The noise mitigation measures to be incorporated into the development include sound reductive roller shutter doors and restrictions on the noise rating of fixed mechanical services and external plant and equipment.
- 10.52 Subject to the above conditions, it is considered that the application complies with Policy LP24 of the Local Plan and guidance in the NPPF.

Highway issues

- 10.53 Access to the site is via Calder View and Chadwick Fold Lane from Calder Road. Calder View is an on-going residential development by Gleeson Homes and the road serving the development is currently un-adopted highway.
- 10.54 Access is beneath the arches of the existing railway viaduct over Calder View and Chadwick Fold Lane. The vehicular entrance to the site is Calder View beneath the western arch and the exit is beneath the eastern arch Chadwick Fold Lane. Pedestrian access is beneath a third arch to the west of Calder View. These arches are known to flood to a considerable depth.
- 10.55 The two arches have 3.88m minimum headroom. In addition, a further secondary access is available with a 3.1m headroom.

- 10.56 Access to the site from A644 Huddersfield Road to the north of the site is via Newgate or Station Road and Back Station Road. Both of these routes have low bridges at 3.2m on Station Road and 3.8m on Newgate. In addition to the bridges Newgate and Station Road are narrow with fairly poor horizontal alignment and Back Station Road has problems with on street parking associated with Mirfield railway station.
- 10.57 The available headroom under the existing bridges along the routes to this site will not allow access for all HGV vehicles.
- 10.58 Access from the east is via Calder Road which is relatively narrow and predominantly residential.
- 10.59 The series of low railway bridges between the A644 and Lower Hopton prevent high vehicle access via the A644, and leave Upper Hopton and Hopton Lane as the only available (but unsuitable) route to industrial units in Lower Hopton. This has resulted in repeated severe damage to property at the Hopton Lane / North Gate junction and concern from local residents.
- 10.60 All vehicles approaching the premises from the south will also access the premises via Upper Hopton.
- 10.61 The existing highway network serving the site would limit the potential for all sizes of HGVs to visit the site. This would influence the types of business that could operate from the units, although the nature of the units (light industrial) would mean that it would generally be smaller types of commercial vehicle.
- 10.62 The proposal would be provided with dedicated car parking and servicing facilities. All the new units have a suitable area to allow vehicles to load / unload clear of the main service road. Swept paths have been provided to demonstrate that a 16.5 metre articulated lorry could enter and exit this site in a forward gear. While it is acknowledged that the height restriction on the local bridges means that a 16.5 metre articulated lorry would be unlikely to be able to gain access to the site, a flatbed lorry may well be able to gain access as the cab would be the highest part of the lorry.
- 10.63 A new upgraded access arrangement directly off Calder View is proposed. This is of an appropriate width and has good visibility. A separate pedestrian access is proposed towards the south of the site.
- 10.64 The development proposes 53 spaces for the development and 3 service vehicle parking spaces, which should be sufficient to cope with the estimated demand, particularly given the public transport links available to employees as described below.
- 10.65 The site has good public transport links with bus services available on Calder Road located approximately 250m south of the site, as well as the further services available on Huddersfield Road A644 to the east of the site (around 580m). The site is within walking distance of Mirfield Train Station. Mirfield Station is located approximately 500m east of the development site.

- 10.66 Based on the floor space and nature of development as well as the restrictions of the access roads, the number of HGV movements that would potentially be realised is likely to be limited and would have little or no impact on the local network. It is estimated that this could be as low as 16 HGV movements a day.
- 10.67 In summary, the proposed development is considered to be acceptable in highway safety terms and accords with Policies LP20, LP21 and LP22 of the Kirklees Local Plan and guidance in the NPPF.

Strategic Green Infrastructure Network

- 10.68 There is a strip of land within the site adjacent to the River Calder that is designated as part of the Strategic Green Infrastructure Network in the Local Plan. This part of the Network falls under the Mirfield Promenade project which is a specific allocation under Policy LP74 of the Local Plan. The proposals are required to take account of the development principles set out within the Mirfield Promenade policy designation. Policy LP31 of the Local Plan (Strategic Green Infrastructure Network) is also relevant in this regard.
- 10.69 The layout of the site provides for this route by creating a path through the site along the designated route. The path runs to the rear of the proposed units and would be separated from them by a new hedge. The proposal is therefore considered to comply with Policy LP74 and LP31. It is necessary to secure the dedication of this path for unrestricted public access under a legal agreement.

Drainage issues

- 10.70 Surface water would be attenuated on site within two cellular storage tanks below the car park. Water would discharge to the River Calder at a restricted rate.
- 10.71 Kirklees LLFA raise no objection to the proposed surface water strategy. Conditions to secure detailed drainage design are recommended. Yorkshire Water have raised no specific objections.
- 10.72 A condition requiring a scheme for temporary surface water drainage during the construction phase is recommended in the interests of environmental well-being and amenity.

Ecology and trees

- 10.73 The site is adjacent to a designated Wildlife Habitat Network (the River Calder).
- 10.74 The application is supported by an Ecological Impact Assessment and bat survey.

- 10.75 The Council's Ecology Unit raises no objection to the application. Conditions are recommended for a BEMP (Biodiversity Enhancement Management Plan) to deliver on-site ecological mitigation and a CEMP (Construction Environmental Management Plan (for Biodiversity)) to mitigate the impact of construction. A condition is also recommended to provide a sensitive lighting scheme to ensure the recommendations of the submitted Ecological Impact Assessment are implemented.
- 10.76 The development is not delivering a 10% biodiversity net gain and so an off-site contribution is required. Based on the scheme as it currently stands, this would be £74,543. However, this would be reduced subject to confirmation of a final landscaping scheme and any other additional on-site biodiversity enhancement that could be provided, such as enhancements along the edge of the River Calder which would improve the post-development score significantly whilst protecting the connectivity of the river. A mechanism can be built into the s106 so that the contribution is reduced by a proportionate amount, subject to the final details of the landscaping scheme and provision of biodiversity enhancement measures within the development.
- 10.77 While there are several trees to be removed as part of this proposal, they are of poor quality with limited long term viability. The development would be providing replacement tree planting on the site as part of the landscaping proposals (full details to be secured by condition).

Planning obligations

- 10.78 As detailed earlier within this report, the following financial contributions are sought from this development:
- £74,543 towards off-site biodiversity enhancement
 - £10,000 towards a flood recovery scheme
- 10.79 In addition, it is necessary to secure the dedication of the proposed 'riverside path' as part of the Section 106 agreement.

Other Matters

- 10.80 The application is supported by a Phase 1 contaminated land report. This recommends further intrusive site investigations. Kirklees Environmental Services agree with the findings of the report and recommend a suite of conditions to secure the intrusive site investigations and remediation of the site as necessary.
- 10.81 An Air Quality Assessment has been submitted with the application. Based on the development being for light industrial use (use class E(g)), Kirklees Environmental Services are satisfied that the development would not give rise to any unacceptable air quality impacts and no mitigation is required.
- 10.82 Facilities for charging electric vehicles and other ultra-low emission vehicles are considered necessary, in accordance with Policy LP24 of the Local Plan, the West Yorkshire Low Emissions Strategy and guidance within the National Planning Policy Framework. A condition requiring charging points is recommended.

10.83 No objections have been raised by the Police Designing Out Crime Officer.

Climate change

10.84 On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

10.85 The development relates to a brownfield site and therefore represents the efficient use of land. Reclaiming the stone from the existing mill for use elsewhere would also represent an efficient use of resources.

10.86 The site is in a sustainable location, with good access to bus and rail links which will promote the use of public transport by employees. Electric vehicle recharging points would be provided (details via condition). The development is providing replacement trees on the site. These measures will help to mitigate the impact of this development on climate change.

11.0 CONCLUSION

11.1 The site has an established commercial use and in this regard the principle of the proposed development is considered to be acceptable.

11.2 The development would provide five purpose built light industrial units which would increase the supply of modern employment floor space within this part of the district and would support in the region of 35 full-time equivalent jobs.

11.3 The development lies in a high flood risk area however the applicant has demonstrated that the development can be made safe, and it is accepted that the wider benefits of the development outweigh the residual flood risk.

11.4 The development is considered acceptable in highway safety terms and the proposed use is compatible with the adjacent residential development, subject to conditions.

11.5 The proposal would secure land for the Mirfield Promenade project and would deliver a biodiversity net gain of 10%.

11.6 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.

11.7 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 Planning and Development)

1. Time limit (3 years)
2. Development in accordance with the approved plans
3. Development in accordance with the approved Flood Risk Assessment, including minimum finished floor levels
4. Full suite of contaminated land conditions (Phase 2 report, remediation and validation)
5. Detailed drainage design including surface water attenuation and petrol interceptor for the car park
6. Temporary drainage measures for construction phase
7. Scheme for provision of electric vehicle recharging points
8. Biodiversity Enhancement Management Plan (BEMP)
9. Construction Environmental Management Plan for biodiversity (CEMP)
10. Detailed planting schedule
11. Boundary treatment details (hard landscaping) including details of the bin store enclosure
12. Noise mitigation measures as proposed within the application
13. Restriction on the hours of use as detailed within this report
14. Scheme for external lighting (for biodiversity and amenity)
15. Surfacing of the parking and turning areas
16. Construction Management Plan for highways and residential amenity
17. Provision of the riverside path before the development is brought into use

Background Papers:

Application and history files.

Website link:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f94165>

Certificate of Ownership – Certificate A signed.

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Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 18-Nov-2021

Subject: Planning Application 2021/93368 Redevelopment of market with addition of mezzanine floor Dewsbury Market, Cloth Hall Street, Dewsbury, WF13 1QE

APPLICANT

Kirklees Council, Growth
& Regeneration

DATE VALID

27-Aug-2021

TARGET DATE

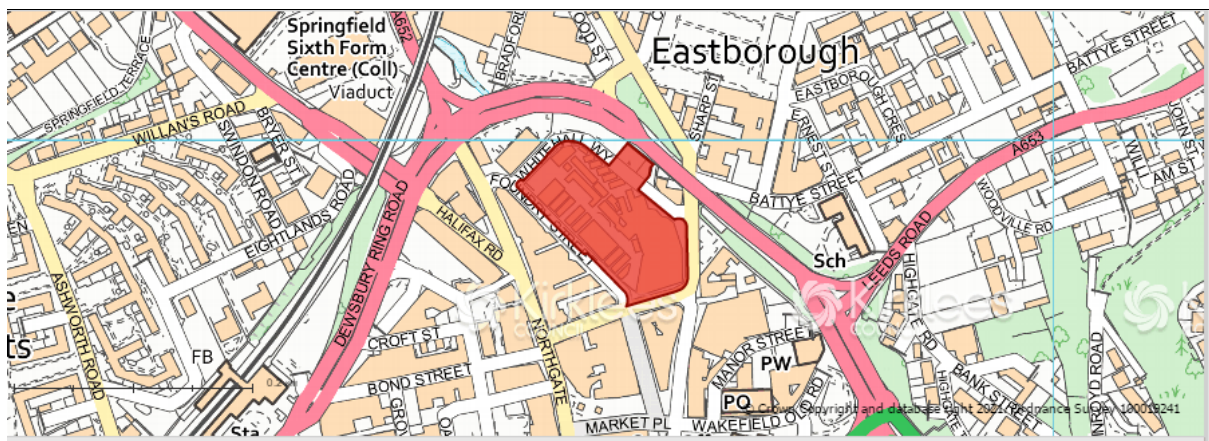
26-Nov-2021

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: Dewsbury East

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

GRANT APPROVAL SUBJECT TO REGULATION 3 AND DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report.

1.0 INTRODUCTION:

1.1 The proposal is for the redevelopment of Dewsbury Market. The application is brought to the Strategic Planning Committee because it represents non-residential development on a site over half a hectare in size. This is in line with the Council's delegation agreement.

2.0 SITE AND SURROUNDINGS:

2.1 The application relates to the existing market within Dewsbury town centre. The Market lies at the northern extent of the town centre and is enclosed by Whitehall Way, Foundry Street, Corporation Street and Crackenedge Lane. Cloth Hall Street runs through the site.

2.2 The Market comprises the Market Hall, the semi-covered market and an outdoor market that currently accommodates around 400 market stalls.

2.3 The Market Hall and semi-covered market are Edwardian structures and lie to the south-eastern part of the site. The open market occupies much of the remainder of the site and consists of a series of lock-up units and open stalls.

2.4 There are also several small buildings within the site. These include toilet blocks adjacent to the semi-covered market as well as a two-storey shop/office block and a terrace of five former fish units, both of which are located in the northern part of the site.

2.5 The application site includes the existing waste compound that serves the market and lies on the opposite side of Whitehall Way. An area next to the waste compound and which forms part of Whitehall Way public car park also forms part of the application site.

2.6 Surrounding the site are a range of uses including a public house, public car park, commercial and residential development.

2.7 The site is within the Dewsbury Town Centre Conservation Area.

2.8 None of the buildings on the site are listed. The Market Buildings are currently under a Certificate of Immunity from Listing, which was issued on 9 October 2020 and is valid until 8 October 2025.

2.9 Dewsbury Market Hall is open on Wednesdays, Fridays and Saturdays with a selection of traders open on Mondays, Tuesdays, Thursdays and Sundays. The general market takes place on Wednesdays and Saturdays.

3.0 PROPOSAL:

3.1 The proposal is for a comprehensive redevelopment of the existing market.

3.2 The proposal would retain the original structure of the existing Market Hall and the semi-covered market as well as the two sets of decorative gates to Cloth Hall Street. The existing stalls and lock-up units forming the outdoor market would be replaced with new stalls (lockable and daily license stalls), a café pavilion and open space.

3.3 To facilitate the redevelopment, some demolition and site clearance is proposed. This includes:

- The stone two-storey shop/office block
- A terrace of five former fish units
- The stone toilet blocks in front of the semi-covered market
- All of the open market stalls and lock-up units
- A small wooden kiosk
- All of the stalls in the Market Hall, including at its perimeter – the building would be stripped back to its original structure
- All of the stalls in the semi-covered market

3.4 The key elements of the proposed development are:

- New stalls for the open market in a series of pods (groups of 4 or 6 stalls)
- A café pavilion at the main entrance of the outdoor market. This would mainly be a takeaway service, with some limited indoor and outdoor seating.
- New stalls within the Market Hall. These would predominantly provide food retail (meat, fish and baked goods).
- A mezzanine floor in the Market Hall to provide a meeting room, office, staff room and CCTV room.
- New stalls in the semi-covered market. These would predominantly comprise food and beverage stalls set around a flexible seating area. This flexible space is intended to act as an entertainment venue, with loose furniture that would enable this space to be reconfigured to accommodate events. The design of the proposal allows for this area to spill out into the outdoor market if necessary. A stand-alone bar is proposed within the semi-covered market along with new toilet facilities.
- Refurbishment of the Market Hall and semi-covered market structures.
- A landscaped area at the north-western end of the site to provide a 'pocket park'. This area would form two separate parcels of landscaping bisected by Cloth Hall Street and would include informal seating and some limited play space.
- The existing waste compound would be expanded into the neighbouring car park.

3.5 The proposed uses across the Market site include:

- E(a) - Display or retail sale of goods, other than hot food;
- E(b) - Sale of food and drink for consumption (mostly) on the premises;
- E(d) - Indoor sport, recreation or fitness (not involving motorised vehicles or firearms);
- Sui Generis - Public House / Wine Bar / Drinking Establishment;
- Sui Generis - Drinking establishments with expanded food provision;
- Sui Generis - Venue for live music performance; and
- Sui Generis - Hot food takeaways (for the sale of hot food where consumption of that food is mostly undertaken off the premises).

3.6 The proposed hours of operation are 06:00 to 23:00, seven days a week, all year round. The proposed start time reflects that of the existing market operation, which allows for servicing and setting up from 06:00. The proposed closing time allows for the provision of social events and evening entertainment.

4.0 RELEVANT PLANNING HISTORY:

4.1 There are numerous historic applications that relate to the market site, although none are directly relevant to the current proposal.

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

5.1 The proposed development was the subject of formal pre-application advice. The advice confirmed the principle of development as being acceptable and provided advice on design and heritage matters as well as technical issues including flood risk and drainage.

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 statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

6.2 The site is within Dewsbury Town Centre and falls within the Dewsbury Primary Shopping Area on the Kirklees Local Plan proposals map. The Market is also designated as a Primary Shopping Frontage. It also lies within the Dewsbury Town Centre Conservation Area.

6.3 Kirklees Local Plan (2019):

LP1 – Presumption in favour of sustainable development

LP2 – Place shaping

LP3 – Location of new development

LP7 – Efficient and effective use of land and buildings

LP13 – Town centre uses

LP14 – Shopping Frontages

LP18 – Dewsbury Town Centre

LP21 – Highways and access

LP24 – Design

LP27 – Flood risk

LP28 – Drainage

LP30 – Biodiversity and geodiversity

LP35 – Historic environment

LP47 – Healthy, active and safe lifestyles

LP51 – Protection and improvement of local air quality

LP53 – Contaminated and unstable land

6.4 National Planning Guidance:

Relevant chapters of the National Planning Policy Framework (2021):

Chapter 2 – Achieving Sustainable Development
Chapter 4 – Decision-making
Chapter 6 – Building a strong, competitive economy
Chapter 7 – Ensuring the vitality of town centres
Chapter 8 – Promoting healthy and safe communities
Chapter 9 – Promoting sustainable transport
Chapter 12 – Achieving well-designed places
Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
Chapter 15 – Conserving and enhancing the natural environment
Chapter 16 – Conserving and enhancing the historic environment

6.5 Other material considerations:

- Highway Design Guide Supplementary Planning Document (2019)
- Biodiversity Net Gain Technical Advice Note (June 2021)
- National Planning Practice Guidance
- National Design Guide (October 2019)
- Dewsbury Design Guide (2013)
- Dewsbury Strategic Development Framework 2018 and Delivery Programme
- Dewsbury Conservation Area Appraisal (2007)
- The Dewsbury Blueprint (2020)
- West Yorkshire Air Quality and Emissions Technical Planning Guidance
- Waste management design guide for new developments (October 2020)
- Planning Applications Climate Change Guidance (June 2021)

7.0 **PUBLIC/LOCAL RESPONSE:**

7.1 The application has been advertised by site notices, neighbour notification letters and a press advert. No representations have been received to date, although the publicity period for the press advert does not expire until 18th November 2021.

7.2 Ward councillors were notified of the application. Councillor Firth commented that news of the submission of the application was “great” and Councillor Scott acknowledged the notification. No specific comments on the proposals have been received.

8.0 **CONSULTATION RESPONSES:**

8.1 **Statutory:**

KC Highways Development Management – The main issue is the loss of parking spaces, taxi bay, disabled parking space and loading bay as a result of the pocket park and the expansion of the waste compound. Discussions are ongoing in relation to this.

Kirklees Lead Local Flood Authority – No objection subject to a condition to secure detailed drainage design.

The Coal Authority – No objection.

The Environment Agency – Response awaited.

8.2 **Non-statutory:**

KC Conservation and Design – No objection subject to conditions requiring further details of: the landscaping (including bollards, street furniture, boundary walls, waste enclosure gates, and samples of surface materials including decorative inlays); details of the terracotta rainscreen cladding and; details of the colours of external finishes to market hall and stalls.

KC Environmental Services – No objection subject to conditions.

KC Ecology Unit – No objection.

KC Trees Officer – No objection.

KC Landscape – No objection.

WY Police Designing Out Crime Officer – Concerns raised with the level of security measures proposed for the site (as detailed within the appraisal).

Yorkshire Water – No objection.

9.0 **MAIN ISSUES**

- Principle of development
- Urban design and heritage issues
- Residential amenity
- Highway issues
- Flood risk and drainage issues
- Crime and security
- Other matters
- Climate change

10.0 **APPRAISAL**

Principle of development

10.1 Local Plan Policy LP13 sets out a hierarchy of centres with Dewsbury being defined as a Principal Town Centre. It's role and function are to:

- Provide for the shopping needs (particularly for non-food goods) of residents across Kirklees.
- Be the main focus in Kirklees for the provision of financial and professional services, offices, entertainment, sport, leisure, arts, cultural and tourism facilities, further and higher education; and health services.

- 10.2 As the market is within the Dewsbury Primary Shopping Area and forms part of the primary shopping frontage, Policy LP14 of the Local Plan (Shopping Frontages) is also relevant.
- 10.3 Primary shopping areas are where retail and other main town centre uses are focused. The policy states that ‘uses within Primary Shopping Areas will be expected to maintain or provide active ground floor uses. Retail uses within the above areas will be supported’.
- 10.4 Primary shopping frontages are where retail should remain the predominant use, which is over 60% of the units. While the proposed redevelopment of the market reduces the number of stalls, these have been underused over the past few years and the market environment would be improved with the new stalls providing for food retail, food and beverage and daily license stalls with transient goods. The Foundry Street stalls would provide an active frontage, enhancing the attractiveness of the market from Kingsway and Queensway.
- 10.5 Policy LP18 of the Local Plan (Dewsbury Town Centre) states that Dewsbury Town Centre will be a place of vibrancy, vitality and diversity and the town centre will form the focus for retail provision for the north of the district, supported by other main town centre uses. Paragraph 9.48 goes on to say that Dewsbury Market plays a key role in the operation and attraction of the town centre by providing both indoor and outdoor markets, drawing a significant number of people into the town centre on market days. Strengthening the market and its connections is important in broadening the offer of uses provided in the centre.
- 10.6 The retailing and town centres Local Plan policies highlighted above support the proposal to redevelop Dewsbury Market, which retains both the indoor and outdoor market with a mix of food retail, food and beverage and transient stalls. The proposal also provides an opportunity to diversify the use of the market by including a space where entertainment events can be held. The redevelopment will support the vitality and viability of the town centre as a whole, through increasing the attractiveness of the market and the potential of increasing linked shopping trips.
- 10.7 The proposal is also consistent with the Dewsbury Town Centre SDF and Dewsbury Blueprint, which both recognise the importance of the market to the town centre and the need to drive greater footfall. The proposal would expand and diversify the market offer which would help to support the overarching ambitions for the town centre.
- 10.8 The principle of development is further supported by chapter 7 of the NPPF, which states that planning decisions ‘should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation’. It also states that ‘planning policies should retain and enhance existing markets’, which demonstrates a commitment to existing markets at national level.

Urban design and heritage issues

- 10.9 Dewsbury Market is located within the Dewsbury Town Centre Conservation Area. The site includes an unlisted Market Hall and an adjoining semi-covered market, which are considered to be a non-designated heritage asset. The Market Hall dates to 1904, with an extension built in the first half of the twentieth

century when the rest of the site was cleared. The Market Hall is a double height vaulted space with a hipped roof, which is glazed to the north and slate clad to the south.

- 10.10 The nearest listed buildings to the site are the Station Hotel, which lies on the opposite side of Whitehall Way, 16-20 Corporation Street and the former Salam Methodist Church (now Rashid Rabbani Madni Jamia Masjid) on Northgate.
- 10.11 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 establishes that “in considering whether to grant planning permission 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.”
- 10.12 Section 72(1) of the Act states “with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”
- 10.13 Policy LP35 of the Local Plan requires development proposals to preserve or enhance the significance of heritage assets and elements which contribute to the distinct identity of Kirklees. Chapter 16 of the NPPF seeks to conserve and enhance the historic environment.
- 10.14 Policy LP24 of the Local Plan states that good design should be at the core of all proposals and this should be promoted by ensuring that the form, scale, layout and details of all development respects and enhances the character of the area. This also includes re-using existing buildings where possible, offering flexibility to meet changing requirements, minimising the risk of crime, providing landscaping and tree planting and providing public art where possible. Guidance within the NPPF also seeks to achieve well-designed places (chapter 12).
- 10.15 The proposal aims to enhance the market area, including the restoration of historic elements and the removal of aspects that do not make a positive contribution to the townscape.
- 10.16 The overarching strategy for the Market Hall and semi-covered market is to re-expose as much of the original structure as possible. In their current state, the facades are cluttered and dominated by ad-hoc stall fronts, which have crept beyond the line of existing columns over time.
- 10.17 In the semi-covered market the stalls protrude intermittently, while the stalls along the perimeter of the Market Hall have encroached underneath the original glazed canopy which would have originally provided weather protection to the stalls and customers. Fabric canopies have been added to compensate for the now redundant glazed canopy.
- 10.18 The strategy for the Market Hall is to pull the facade back behind the existing columns and to reinstate the glazed canopy to its original use.

- 10.19 The proposed works to the Market Hall and semi-covered market would reveal the historic fabric and create a more welcoming environment both internally and externally. The proposals include:
- The removal of the ground floor stalls and associated clutter (security shutters and awnings) and replacement with glazed curtain walling and glazed sliding/folding doors.
 - Like-for-like replacement of the existing high level glazing.
 - Restoration of the original cast iron frame, roofs and projecting glazed canopies.
 - Reconfiguration of the internal stalls.
- 10.20 The Whitehall Way and Crackenedge Lane elevations of the semi-covered market are the least prominent elevations and security is an important consideration here. The cast iron frame detailing on the gables is to be retained, with the infilling of the ground floor walls in a terracotta rainscreen cladding. Although secondary elevations, they are directly opposite the stone-built Grade II listed Station Hotel and the quality of the proposed treatment of these elevations successfully responds to this setting.
- 10.21 The clearance of the outdoor stalls is supported as these make a negative contribution to the character of the Conservation Area, with low quality covered units and a layout which encourages anti-social behaviour. The demolition of several permanent structures is also proposed, including the toilet blocks sited alongside the semi-covered market which will enhance the view of the building and allow this elevation to open onto the market area. To the northern end of the site, the market office and fish block would be demolished, with this area landscaped to create a 'pocket park'. None of the structures that are proposed to be demolished contribute to the character of the Conservation Area and as such there is no objection their removal.
- 10.22 The reconfiguration of the open market is proposed to create a safe, attractive, and welcoming space with active frontages including on Foundry Street, which will provide a link between other areas of the town including the nearby arcades and the shops opposite the site.
- 10.23 The proposed outdoor market stalls are simple in design with canopies and shallow hipped roofs which reflect the style of the market hall buildings. The stalls would be secured with external roller shutters which would incorporate a perforated pattern. The perforated shutters would either be back lit or have a coloured backing piece. The canopies will fold down and lock to the facade, partially obscuring the roller shutters from view. The security shutters in between the stalls would be open grille which would further help to mitigate the visual impact of the required security measures when the market is not in use.
- 10.24 The proposed Cafe Pavilion is located at the main public entrance into the outdoor market and forms part of the 'arrival space'. It is a key junction in terms of sightlines of the Market Hall and outdoor market. The proposal for a structure that stands as a feature building in this prominent location is welcomed.

The use of terracotta rainscreen cladding follows on from the main market buildings to create a consistent approach across the market. The specification of the terracotta cladding would need to be agreed (by condition) but it is shown in a blue colour within the application, which is reflective of the lighting columns found within the town centre and on the decorative gates to the market at each end of Cloth Hall Street. These decorative gates are to be retained.

- 10.25 An expanded waste enclosure is proposed on Whitehall Way, constructed from reclaimed stone with decorative perforated metal gates.
- 10.26 The use of natural stone paving is proposed around the market hall to enhance the most prominent elevations and the seating areas, with setts marking out the former line of Cloth Hall Street. This reflects the historic surfacing in the town and, along with some planting and high-quality street furniture, would enhance this space.
- 10.27 The proposed 'pocket park' to the north of the site would provide an attractive contrast to the hard surfaces of the market and would provide seating and opportunities for informal play. The existing trees to the northern boundary along Whitehall Way would be retained. A condition requiring a detailed scheme for the laying out of the pocket park is recommended. The pocket park has good natural surveillance, particularly from the flats in the building opposite.
- 10.28 As part of the proposals, a landscaping scheme is proposed to Foundry Street to 'green' this area and create a pleasant backdrop to the market. This includes raised planting beds, street trees, benches and cycle parking. New tree planting is also proposed to Whitehall Way.
- 10.29 It is proposed to incorporate a piece of public art within the market. This is intended to be located in the ground surface at the main entrance to the market. An artist is to be commissioned to design the artwork.
- 10.30 A lighting scheme has been submitted with the application. This is intended to enhance the evening and night time appearance of the facades by highlighting significant elements of the buildings, whilst promoting security of the site.
- 10.31 In summary, officers support the design approach for the restoration and upgrading of Dewsbury Market, with enhancements to the historic buildings and improvements to an area which currently makes a negative contribution to the character of the Conservation Area. The proposal would deliver a high quality of design and the application is considered to accord with Policies LP24 and LP35 of the Local Plan and guidance in the NPPF.

Residential Amenity

- 10.32 There is residential use within the immediate vicinity of the site. The application is supported by noise and odour assessment reports.

Noise

- 10.33 The submitted noise report considers plant noise emissions from the development and entertainment event noise break-out from the semi-covered market to the external environment. The report assumes the following operational times for the scheme:

- Mechanical plant may operate 24 hours a day.
 - Entertainment events in the semi-covered market may take place between 1000hrs to 2300 hrs.
- 10.34 It is proposed that the market will host a range of entertainment events and for the purposes of the noise assessment assumptions have been made based on an example event schedule.
- 10.35 The assessment has considered the nearest existing noise sensitive receptors (NSR's) to the site to be the existing residential properties that surround the site. They are –
- 1) Machells Mill, Whitehall Way
 - 2) Residential Accommodation above the Station Hotel, Crackenedge Lane
 - 3) Flats above 19 Foundry St
- 10.36 The noise report has been assessed by Kirklees Environmental Services who accept the findings of the report. Conditions are recommended to control noise associated with entertainment events (such as music) at nearby residential premises and to control the combined noise level from any fixed mechanical services and external plant measured against the background sound level at any time.

Odours/ Ventilation

- 10.37 A Ventilation and Extract Statement has been submitted in support of the application. The statement has considered extract and ventilation for the market hall, semi-covered market, toilets and changing rooms, offices/staff room and kitchens.
- 10.38 Overall, Kirklees Environmental Services accept the general principle and content of the Odour/Ventilation Statement. While the information that has been provided is quite general, it is recognised that it is not known at this time what type of food would be prepared and cooked. Further detailed information regarding the kitchen extract ventilation system for each of the units and how they would control odours is required and can be secured by condition.

External Artificial Lighting

- 10.39 A Lighting Report has been submitted which provides details of the proposed lighting for the development. New external lighting is proposed for the external market area to provide improved visibility in the area during hours of darkness. This has been designed to minimise the impact to neighbouring properties. Existing pavement lighting around the site perimeter is to be maintained. The proposal includes low level LED lighting and would be controlled via a photo-cell and time clock to minimise the operational hours. This would be linked to the hours of darkness and time of day. All exterior lighting would be switched off during the hours of daylight and switched on at dusk.

- 10.40 Environmental Services are generally satisfied with the proposed lighting scheme for the market. However, the report makes no reference to the vertical illuminance at the facades of the nearby residential properties. In addition, there are also concerns that the proposed illuminance within the waste enclosure, which is 50 lux, has the potential to impact the amenity of nearby residential properties. Therefore, these two points require further clarification or a condition relating to a revised external lighting scheme will be necessary.

Hours of Use

- 10.41 The proposed hours of use are 06:00 – 23:00 hours every day. A condition restricting the hours of use to those proposed within the application is recommended. This is to protect nearby residents from noise at unsociable hours.

Construction

- 10.42 To mitigate the impact of construction on neighbouring residential properties, a condition for a Construction Environmental Management Plan is recommended. This would help to control noise, vibration, dust and artificial light during the construction phase of the development.
- 10.43 In summary, it is considered that the development would not materially harm the living conditions of nearby residents, subject to the imposition of the conditions outlined above.

Highway issues

- 10.44 The site is within a highly sustainable location within the heart of the town centre and is well served by public transport links.
- 10.45 Vehicle access would be retained as existing from the northern section of Whitehall Way, with a central spine access route (Cloth Hall Street) leading to two new separate exit routes to the eastern section of Whitehall Way and then through to Foundry Street. This is similar in form to the existing vehicle access arrangements.
- 10.46 Changes are proposed to the footways on Foundry Street. This includes removal of two existing lengths of parking bay on the market frontage to create landscaped areas as part of the public realm strategy. This results in the removal of the disabled (four spaces) and taxi bays on the eastern carriageway edge of Foundry Street.
- 10.47 Minor modifications are also proposed to the arrangement of the loading bays and disabled parking on Whitehall Way to the east of the site, as a result of the new access and modified access arrangements.
- 10.48 The proposal also necessitates an increase in size of the waste enclosure area opposite the market, to the north of Whitehall Way. This requires the vehicle access to be repositioned. The increase in size of the waste enclosure would also remove six spaces from the Whitehall Way car park and two on-street spaces.

- 10.49 The proposals are for the refurbishment of the existing market within the existing footprint, and access, servicing arrangements and means of dealing with waste would be unchanged.
- 10.50 The proposed works to Foundry Street would involve the loss of a number of disabled and taxi parking areas. It is intended that these would be relocated to the Whitehall Way public car park and onto Whitehall Way, with increased provision for both. Further details of this have been requested.
- 10.51 Given the town centre location and given that access and servicing are largely unchanged, Highways Development Management (HDM) have no objections to these proposals.
- 10.52 Conditions are recommended requiring a Construction Management Plan to mitigate the impact of the construction phase on highway safety; details of the closure and amendments to existing parking bays on Foundry Street and Whitehall Way, including TROs; and details of a scheme detailing highway structures within the proposed site given the presence of Batley Beck (Dewsbury Beck) culvert directly within the footprint of the proposed redevelopment site.
- 10.53 Overall, it is considered that the proposed development would not result in any significant harm to highway safety and the application accords with Policy LP21 of the Local Plan.

Flood risk and drainage issues

- 10.54 Batley Beck, a culverted main river, runs east through the north of the site and south along the eastern boundary. The Environment Agency's Flood Map for Planning identified the north and east of the site to be predominantly located in Flood Zone 2 (medium risk) with a small area of Flood Zone 3 (high risk) encroaching along the boundaries. The remainder of the site is in Flood Zone 1, defined as having a 'low' probability of flooding from Batley Beck.
- 10.55 The required buffer zone for the Beck is 8m, and the Environment Agency have previously indicated to the applicant that there should be no new structures built on top of the culvert. However, the Environment Agency have agreed that the proposals can encroach on the buffer zone if it can be demonstrated that there will be no additional vertical or horizontal loads imposed on the culvert as a result of the proposals. Details of the structural mitigation strategies for the proposals are illustrated in the application submission ('Culvert Constraints Strategy') and the application is supported by a Flood Risk Assessment (FRA). The FRA concludes that the development can be considered appropriate for Flood Zone 2, in accordance with the NPPF and Local Planning Policy LP27, and subject to the mitigation measures proposed.
- 10.56 The Environment Agency has been consulted on the application and their comments are awaited. An update will be provided within the published agenda update.

- 10.57 In terms of drainage, Dewsbury Market is currently 100% impermeable and surveys have confirmed the hardstanding areas to be positively drained to the public combined sewers on Foundry Street, Cloth Hall Street and Crackenedge Lane and to the culverted watercourse, Batley Beck. Since the proposals are for the refurbishment of the existing Market Hall and indoor market there would be no change in the drained areas and subsequently no change in surface water discharge rates for this area.
- 10.58 It is therefore proposed that the existing surface water network is retained, utilising the existing connections into the surrounding combined public network.
- 10.59 The northern part of the outdoor market is shown to discharge into the culverted watercourse. Due to the potential impact upon the structural integrity of the culvert, the Environment Agency have advised that no further connections should be provided to the culvert. Therefore, for the outdoor market area, the surface water drainage strategy proposes to retain the existing outfall connections into the combined sewer on Cloth Hall Street and the culverted watercourse. A 30% reduction on existing rates would be implemented and an application of 40% to peak rainfall would be applied to account for climate change over the lifetime of the development. Excess surface water runoff would be attenuated on site in the form of permeable paving, tree pits and oversized pipes up to the 1 in 100 year plus 40% climate change event.
- 10.60 Foul water drainage requirements are to be confirmed at detailed design stage. There is a right of connection for foul drainage to the public sewer system.
- 10.61 Kirklees Lead Local Flood Authority support the application, subject to a condition requiring final detailed design of the drainage scheme. The LLFA have advised that the tree planting to Foundry Street is incorporated into the drainage design i.e. the use of tree pits as a sustainable urban drainage system feature.
- 10.62 Yorkshire Water initially raised an objection to the proposed site layout because of the proximity of development to public sewerage infrastructure crossing the site. The applicant has discussed this directly with Yorkshire Water, who have subsequently indicated in an email that they have no objection to the layout because the layout affords sufficient room for them to maintain their infrastructure. A formal response from Yorkshire Water confirming this is awaited.
- 10.63 Kirklees Environmental Services recommend a condition regarding food premises drainage. The proposed development includes the provision of cafes, a bar and other food premises which are likely to result in fats, oils, and grease entering the drainage network serving these commercial food preparation and dish-washing areas. Therefore, it will be necessary for a condition to prevent pollution entering the drainage network.

Crime and security

- 10.64 The strategy for securing the site is to prevent access to the outdoor stalls when the market is not in use, which the Design and Access Statement identifies as the main issue enabling anti-social behaviour. The market buildings would be secured generally to prevent unauthorised access through the construction of the new elements (glazed facades, overhead sectional doors and new internal and external doorsets). Access control, CCTV and external lighting would provide additional security measures.

- 10.65 The submission identifies the out of hours secure boundary, where outdoor stalls are secured in four separate blocks. By securing the site in blocks, access to the stalls and aisles would be prevented when the market is closed. The stalls which form the boundary would be secured with solid roller shutters (with a perforated design) and aisles between stalls would have roller shutters that allow vision through. Access through the site out of hours would be achievable along Cloth Hall Street and there are two short link connections proposed between Cloth Hall Street and Whitehall Way, in between some of the secured blocks of outdoor stalls.
- 10.66 The West Yorkshire Police Designing Out Crime Officer (DOCO) has raised strong concerns with the proposed level of security for the site, specifically how the perimeter of the market would be secured out of hours. The context to this is the continuing levels of crimes and anti-social behaviour in and around the market. Issues which have been identified by the Police are anti-social behaviour, public order offences, drink and substance abuse, criminal damage including deliberate fire setting on the stalls, violence at the market site and sexual offences.
- 10.67 The DOCO considers that access through the site out of hours should be prevented to mitigate opportunities for crime and anti-social behaviour. It has been recommended that gates be added at each end of Cloth Hall Street (potentially using the existing decorative gates that are to be retained) and that gates/barriers be added to the two link connections between Whitehall Way and Cloth Hall Street on the north-eastern boundary. The DOCO has sought a condition to secure a scheme that would stop unauthorised access outside of trading hours.
- 10.68 The applicant has advised that they are willing to accept a condition requiring the provision of a scheme of measures to prevent unauthorised access to the site when the Market is closed. On this basis, officers recommend the imposition of such a condition. Careful consideration will need to be given to the design of the gates, but it is considered that a high quality design can be achieved which would be sympathetic to the redeveloped Market and the character of the Conservation Area.
- 10.69 The applicant has submitted details of a CCTV scheme. The DOCO has advised that the CCTV coverage provided by the proposed scheme could be improved and should be supplemented with additional cameras. A condition requiring a revised CCTV scheme is considered reasonable and necessary.
- 10.70 The DOCO has advised that the lighting scheme for the development must conform to specific recommended standards. This can be conditioned.
- 10.71 Details of the landscaping of the site, including street furniture and seating within the pocket park, are to be secured by recommended condition. The DOCO would have an opportunity to comment on the detailed scheme when the applicant seeks to discharge the condition.
- 10.72 The DOCO has recommended a condition for the provision of secure cycle/motorcycle parking. It is considered that this can be conditioned.

- 10.73 Vehicles are only permitted access on site during specified hours to allow traders to set up their stalls. This strategy would be managed and implemented by the market management staff and removable bollards would be used to prevent unwanted vehicles accessing the site.
- 10.74 Paragraph 97 of the NPPF states that planning decision should take into account wider security requirements by anticipating and addressing possible malicious threats, especially in locations where large numbers of people are expected to congregate. It goes on to say that the layout and design of developments should be informed by the most up-to-date information available from the police and other agencies about the nature of potential threats and their implications. This includes appropriate and proportionate steps that can be taken to reduce vulnerability, increase resilience and ensure public safety and security.
- 10.75 In this case, it is necessary for the development to provide suitable measures to address possible malicious threats. This has been taken into account with the proposed glazing to the market buildings. However, it is also necessary to consider hostile vehicle mitigation (HVM) measures. While the submission indicates that there is a plan to look at HVM measures on a town centre wide basis, this development needs to demonstrate that it has addressed potential malicious threats in order to comply with the NPPF. A condition requiring details of a scheme for suitable HVM measures is therefore considered to be necessary. The agreed scheme would need to be provided before the development is first brought into use.
- 10.76 In summary, subject to the aforementioned conditions, it is considered that the application satisfies the requirements of Policy LP24 of the Local Plan and guidance in the NPPF.

Ecology and trees

- 10.77 The application is supported by an Ecological Assessment. This concludes that there are no habitats within the site that are of ecological importance.
- 10.78 The buildings on site recorded low suitability to support roosting bats and no signs to indicate the use by bats were recorded internally within any structures. No bat roosts were identified during the subsequent presence/absence surveys and low levels of foraging and commuting activity around the site were recorded. Negligible suitability to support a bat roost was identified within the trees on site and the survey information suggests that none of the trees currently support roosting bats.
- 10.79 The proposals involve the retention of the existing trees to the north of the site within the proposed pocket park. New tree planting is also proposed to Foundry Street and Whitehall Way along with raised plant beds on Foundry Street and there are opportunities for native planting within the pocket park. There are currently only three trees on the site and the proposal would provide a total of 17 trees of varying sizes, which represents a substantial gain in tree coverage.

10.80 The following ecological measures form the basis of the overarching ecological strategy for the site:

- Appropriate native tree species and other vegetation planting around the site to provide recognisable fruit and nectar sources for local birds, small mammals and invertebrates; trees would enhance the long-term biodiversity of the development.
- Areas of biodiverse planting provided within any designated soft landscaping to provide a source of food for local fauna
- Nesting and roosting opportunities for birds and bats.
- Implementation of a sensitive lighting strategy to mitigate the impact on bats and flying invertebrates.

10.81 A condition requiring a detailed scheme for the above ecological measures is recommended.

10.82 The three existing trees on the site are to be retained within an area of landscaping and the submitted Arboricultural Impact Assessment (AIA) demonstrates that the trees would be suitably protected during the proposed works. A condition is recommended requiring the development to be carried out in accordance with the AIA.

Other matters

10.83 The proposed development site is shown as being potentially contaminated from its former use and according to the Council's records it is within 250m of a former Kirklees Council landfill site, where there is the potential for ground gas migration. As the development includes demolition and ground works it is necessary for conditions to be imposed relating to contaminated land.

10.84 The Coal Authority has advised that they do not object to this application.

Climate change

10.85 On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target, however, it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

10.86 The site is within a highly accessible location and involves the renewal of existing buildings. Re-use rather than demolition and redevelopment of buildings helps limit losses of embodied energy and carbon. The site's accessibility means a significant proportion of staff and visitors will be able to travel to and from the development using sustainable modes of transport. The proposal would provide new tree planting and other soft landscaping and cycle storage facilities, and these measures would help to mitigate the impact on climate change. As such, it is considered to be a sustainable form of development.

11.0 CONCLUSION

- 11.1 The proposed redevelopment of Dewsbury Market would strengthen this key asset for the town and help to support the vitality of the wider town centre. The market offer would be enhanced and diversified which would encourage footfall, linked trips and dwell-time within the centre which would benefit the economy and vibrancy of Dewsbury.
- 11.2 The physical changes would create a more attractive and welcoming environment and the proposal would also benefit the character of the Conservation Area by removing features that do not make a positive contribution and by restoring the historic buildings. New tree planting and plant beds to the periphery of the market would improve the public realm and the provision of a 'pocket park' would introduce an appealing area of open space into the town centre. This 'greening' of the market would also provide ecological benefits.
- 11.3 The proposal would not result in any significant harm to highway safety and the development can be controlled so as to ensure that the amenity of nearby residential occupiers is not unduly prejudiced.
- 11.4 The proposal would vastly improve the security of the Market, which should help to address ongoing anti-social and criminal behavior issues at the Market site.
- 11.5 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.
- 11.6 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 Planning and Development)

1. Time limit (3 years)
2. Development in accordance with the approved plans
3. Detailed landscaping scheme - including for the pocket park, proposed tree planting and plant beds, bollards, street furniture, boundary walls, waste enclosure gates and samples of surface materials including decorative inlays
4. Details of the terracotta rainscreen cladding
5. Details of the colours of external finishes to market hall and stalls
6. Detailed drainage design
7. Development in accordance with the Arboricultural Impact Assessment
8. Detailed scheme for ecological enhancement measures (Biodiversity Enhancement Management Plan)
9. Construction Management Plan/s for residential amenity and highway safety
10. Details of the closure and amendments to existing parking bays on Foundry Street and Whitehall Way including TROs
11. Highway structures condition relating to Dewsbury Beck culvert

12. Full suite of contaminated land conditions (including Phase 1 contaminated land report and further intrusive investigations, remediation and validation as may be necessary)
13. Restriction on hours of use to those proposed within the application
14. Restriction on entertainment noise
15. Restriction on noise from fixed plant and equipment
16. Kitchen extraction/ventilation scheme
17. Pollution prevention for drainage from food premises
18. Artificial lighting scheme to address comments from KC Environmental Services and WY Police DOCO
19. Revised CCTV scheme
20. Secure cycle and motorcycle parking
21. Scheme for hostile vehicle mitigation measures
22. Scheme of measures to prevent unauthorised access to the site when the Market is closed

Background Papers:

Application and history files.

Website link:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f93368>

Certificate of Ownership – Certificate A signed.

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Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 18-Nov-2021

Subject: Planning Application 2021/90357 Works to existing sports facilities including erection of a clubhouse, additional changing facilities building, boundary treatments, storage facilities and floodlighting, works to existing pitches, and creation of new hybrid and five-a-side pitches and car park East Bierley Playing Fields, Hunsworth Lane, East Bierley, BD4 6PU

APPLICANT

East Bierley Community
Sport Associates

DATE VALID

24-Feb-2021

TARGET DATE

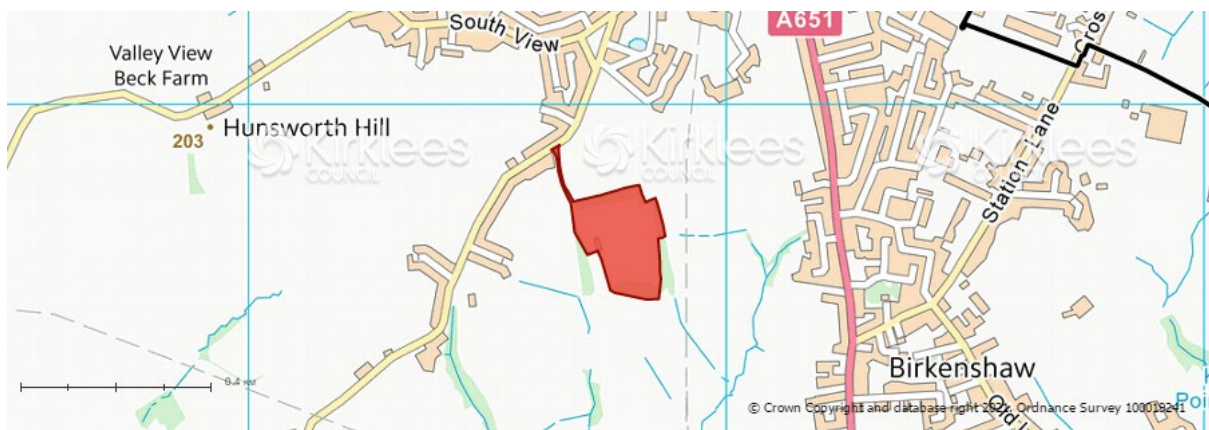
26-May-2021

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: Birstall and Birkenshaw

Ward Councillors consulted: Yes

Public or Private: Public

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 This is an application for full planning permission for works to existing sports facilities including the erection of new buildings and the creation of new pitches.
- 1.2 This application is presented to Strategic Planning Committee as the proposal relates to a site larger than 0.5 hectares in size.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site is 3.3 hectares in size (officer's measurement) and comprises East Bierley Playing Fields and the track that runs northwards from the playing fields to Hunsworth Lane.
- 2.2 Two grass pitches exist within the application site. The site's only permanent building is a single-storey structure accommodating changing rooms, referee rooms, toilets, a store and a tea room / tuck shop. Various boundary treatments and barrier railings exist within and around the site. The track is gated close to the southeast corner of the curtilage of 612 Hunsworth Lane.
- 2.3 The site is surrounded by agricultural fields. Beyond a field to the north is allocated site HS89. Further north is a recreation ground (designated as urban green space in the Local Plan) and the village of East Bierley. There is also residential development to the west of the application site, beyond agricultural land.
- 2.4 The application site generally slopes downhill from north to south, with its highest point (approximately 197m AOD) close to the junction of the track and Hunsworth Lane, and its lowest (approximately 180m AOD) at its southern tip.
- 2.5 The application site is not allocated for development in the Local Plan. Almost all of the application site is within the green belt, as is all land surrounding the main part of the application site. Part of the track is not within the green belt.
- 2.6 The application site red line boundary meets the boundary of the East Bierley Conservation Area at the junction of the track and Hunsworth Lane. There are no listed buildings within or close to the application site. Historic field boundaries surrounding the site are undesignated heritage assets.
- 2.7 No public rights of way cross or meet the application site.
- 2.8 No trees within or immediately adjacent to the application site are protected by Tree Preservation Orders.
- 2.9 All of the application site, and much of the surrounding land, is within a Biodiversity Opportunity Zone (Pennine Foothills), and land within the site (around its edges) forms part of the Wildlife Habitat Network.

2.10 The northern part of the application site is within a Development Low Risk Area as defined by the Coal Authority. The southern part is within a Development High Risk Area.

3.0 PROPOSAL:

3.1 The application is for full planning permission for works to the site's existing sports facilities, including:

- Replacement of existing grass football pitch and grass rugby pitch with a 64m x 36.6m grass hybrid pitch, a 100m x 68m 3G / synthetic pitch, and a repositioned 95m x 68m grass rugby pitch.
- Provision of a 50m x 30m multi-sport training area.
- Changes to levels to enable provision of flat pitches, and provision of retaining gabion walls along northern and southern edges of grass hybrid pitch.
- Erection of an "HQ facility" (clubhouse) with patio area.
- Erection of an additional changing facilities building.
- Erection of fencing and barriers including 2.4m green mesh fencing, 6m high green mesh fencing (with taller catch nets to 11m) and re-used 1.1m high white barriers.
- Erection of 11 floodlighting columns (6x 15m in height, 2x 10m in height and 3x 8m in height), with two further floodlights mounted to the proposed changing facilities building.
- Provision of two goal storage facilities (shipping containers) measuring 6m (length) x 2.5 m (width) x 2.6m (height).
- Resurfacing and marking out of car park, to provide 113 parking spaces.
- Upgrade works to a 30m long stretch of access track to the north of the playing fields.

3.2 The site's existing single-storey building would be retained.

3.3 The applicant is the East Bierley Community Sports Association (EBCSA). The submitted Planning Statement notes that the EBCSA was formed in 2012 (with charity status gained in 2016) as a result of Birkenshaw ARLFC and Hunsworth FC joining forces to raise funds to redevelop the changing rooms at East Bierley Playing Fields. Several football and rugby teams currently play and train at the application site, including those of Birkenshaw Blue Dogs ARLFC and some teams of Gomersal and Cleakheaton FC.

3.4 The applicant has confirmed that the application site is owned by the council, but is subject to a long-term (125 year) lease to the EBCSA, signed in 2016.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 87/05828 – Planning permission granted 29/01/1988 for provision of additional football pitch and improved car parking facilities.

4.2 2001/91476 – Planning permission granted 16/08/2001 for siting of portable changing facilities and equipment hut units.

4.3 2004/93938 – Planning permission granted 18/11/2004 for siting of portable changing facilities and equipment hut.

- 4.4 2011/91558 – Planning permission granted 24/08/2011 for erection of new changing facilities.
- 4.5 2014/91130 – Planning permission granted 16/07/2014 for erection of building to provide changing facilities.
- 4.6 The following planning applications largely relate to land adjacent to the current application site, however their application site red line boundaries include parts of the same track that extends between East Bierley Playing Fields and Hunsworth Lane:
- 4.7 2019/93616 – Application for full planning permission for the erection of 46 dwellings. On 17/11/2020 the council's Strategic Planning Committee resolved to approve the application.
- 4.8 2021/92059 – Application for full planning permission for the formation of a new access to existing stables. Pending consideration.

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

- 5.1 The applicant requested pre-application advice from the council in March 2020 (ref: 2020/20079) in relation to the provision of two multi-sport pitches (to replace one of the existing pitches), a junior pitch, a 150-space car park, a new clubhouse, terraced seating, an exercise track and upgrade works to the existing access track. Informal written advice was provided on 10/07/2020. The main points of that advice were:

- NPPF determines that new buildings in the green belt are inappropriate, but allows for appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport as long as the facilities preserve the openness of the green belt and do not conflict with the purposes of including land within it. Local Plan policy LP56 also applies.
- Site has a relatively open character, with only barriers and a modest building. Proposal represents significant development relative to the existing sporting facilities.
- Scale of new development should be no more than is reasonably required for the functioning of the facility. Planning Statement required, detailing how the existing facilities are currently used, together with details of the future requirements of the applicant.
- Details of interventions and levels required, to inform assessment of how the development might impact on the openness of the green belt and visual amenity or reasons for including land within it.
- Existing access track is unsuitable for any intensification in use without considerable improvement.
- Transport Statement required (scope to be agreed with officers).
- Site is potentially contaminated. Phase I contamination report required.
- Coal mining risk assessment required.
- Potential for noise from pitches to adversely affect residential amenity. Times of use of pitches may need to be restricted.
- If outdoor lighting is proposed, application should include details of hours of use, luminaires, horizontal and vertical illuminance, measures to limit glare and spill, and methods of control. BS EN 12193:2018 recommends an illuminance of 75 lux for large ball sports for Lighting Class III (low

level competition such as local or small club competition), however small ball sports may require higher levels of illuminance. Proposed lighting will need to incorporate a switching facility so that appropriate different levels of illuminance can be provided for different uses.

- Electric vehicle charging points required.
- Ecological function and connectivity of Wildlife Habitat Network should be safeguarded, and network should be strengthened.
- Site supports semi-natural habitat including woodland (which has potential to support protected species including nesting birds and roosting or foraging bats), so timing of tree removal and details of lighting will need to be considered.
- Loss of woodland cover should be avoided.
- New planting and landscaping is welcomed but will need to be supported by ecological surveys and a suitable ecologically-sensitive management regime.
- Details of management of existing trees and woodland required.
- Proposals should respond positively to climate change initiatives and policies.
- Flood Risk Assessment required.
- Details of phasing required.
- Engagement with applicant for adjacent site (application ref: 2019/93616) encouraged.

5.2 During the life of the current application, a corrected development description was agreed between the applicant and officers, and the applicant submitted a Transport Statement and drawings of the proposed floodlighting columns that were missing from the initial submission. The applicant later submitted amended drawings, lighting information, a bat report, and amended Preliminary Ecological Appraisals (including a later version with the previously-omitted Biodiversity Net Gain calculation). The case officer obtained a Report on a Geo-Environmental Investigation directly from the relevant consultant, and the applicant subsequently agreed to it being included among the application documents. The applicant later provided clarification regarding the proposed goal storage facilities, reduced the number of proposed floodlighting columns, revised the size and location of the proposed changing facilities building, deleted the previous proposal to swap the use of two 700sqm parcels of land (and to clear part of the Wildlife Habitat Network), and provided further information regarding the existing and proposed use of the site, including details of the potential public benefits of the proposed development. An Acoustic Planning Report was also submitted.

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 statutory Development Plan for Kirklees is the Local Plan (adopted 27/02/2019).

Kirklees Local Plan (2019):

6.2 The application site is within the green belt and is not allocated for development in the Local Plan.

6.3 Relevant Local Plan policies are:

LP1 – Presumption in favour of sustainable development
LP2 – Place shaping
LP3 – Location of new development
LP10 – Supporting the rural economy
LP16 – Food and drink uses and the evening economy
LP20 – Sustainable travel
LP21 – Highways and access
LP22 – Parking
LP24 – Design
LP27 – Flood risk
LP28 – Drainage
LP30 – Biodiversity and geodiversity
LP32 – Landscape
LP33 – Trees
LP38 – Minerals safeguarding
LP47 – Healthy, active and safe lifestyles
LP48 – Community facilities and services
LP50 – Sport and physical activity
LP51 – Protection and improvement of local air quality
LP52 – Protection and improvement of environmental quality
LP53 – Contaminated and unstable land
LP56 – Facilities for outdoor sport, outdoor recreation and cemeteries (green belt)
LP63 – New open space

Supplementary Planning Guidance / Documents and other documents:

6.4 Relevant guidance and documents:

- Kirklees Playing Pitch Strategy (2015)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Kirklees Joint Health and Wellbeing Strategy (2014) and Kirklees Health and Wellbeing Plan (2018)
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
- Highway Design Guide SPD (2019)
- Waste Management Design Guide for New Developments (2020)
- Planning Applications Climate Change Guidance (2021)
- Biodiversity Net Gain Technical Advice Note (2021)

Climate change

6.5 The council approved Climate Emergency measures at its meeting of full Council on 16/01/2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.

6.6 On 12/11/2019 the council adopted a target for achieving “net zero” carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda. In June 2021 the council approved a Planning Applications Climate Change Guidance document.

National Planning Policy and Guidance:

6.7 The National Planning Policy Framework (2021) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal. Relevant paragraphs/chapters are:

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 6 – Building a strong, competitive economy
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 13 – Protecting green belt land
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 17 – Facilitating the sustainable use of materials.

6.8 Since March 2014 Planning Practice Guidance for England has been published online.

6.9 Relevant national guidance and documents:

- National Design Guide (2019)
- Fields in Trust Guidance for Outdoor Sport and Play (2015)
- Guidance Note 1 for the reduction of obtrusive light (2021)

6.10 Sport England have published the following guidance documents of relevance to this application:

- Playing Fields Policy and Guidance (2018)
- Planning For Sport Guidance (2019)
- Artificial Grass Pitch (AGP) Acoustics – Planning Implications (2015)
- Artificial Sports Lighting (2012)

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised as a major development.

7.2 The application was advertised via three site notices posted on 11/03/2021, a press notice published on 11/03/2021 (and again, with a corrected development description, on 25/03/2021), and letters delivered to addresses close to the application site. This is in line with the council's adopted Statement of Community Involvement. The end date for publicity was 17/04/2021.

7.3 Six representations were received in response to the council's consultation. These representations have been posted online. The following is a summary of the comments made:

- Support principle of improving playing fields.
- Development is necessary to increase capacity and improve sports facilities for local community and younger people. Development would enable more teams to be based at this site. Access to sports would be improved.
- Proposal should be approved instead of the nearby residential development.
- 150 car parking spaces seems excessive. That number of vehicles has never been seen at the site.
- Increased parking provision would improve traffic safety on match and training days.
- Concern regarding number of vehicles turning into and out of track, taking into account traffic of nearby residential development already approved.
- Track is narrow and potholed and should be upgraded.
- Community venue would bring people together.
- Concerns regarding drainage. Adjacent land floods after heavy rain. Non-permeable car parking surface, and upgrade of track, would exacerbate drainage problem. Loss of vegetation would increase flooding. Nearby residential development would also affect drainage, and there isn't scope for both schemes to be approved. Adequate drainage proposals should be submitted, demonstrating no adverse impact on nearby land, manage and stable area.
- Objection to loss of trees. Replacement trees would take a generation to mature. Query if existing trees could be transplanted.
- Site is a former slag heap, and existing trees are holding the land together.
- Air quality concerns related to loss of trees.
- Concern regarding loss of wildlife and habitat.
- Query as to whether site's existing Japanese Knotweed problem has been resolved.
- Query as to whether access to woodland and circular walk would be maintained.
- Concern regarding light pollution affecting adjacent neighbours, including occupants of lower ground.

7.4 Responses to these comments are set out later in this report.

7.5 Later submissions (made during the life of the application) did not necessitate further public consultation.

8.0 CONSULTATION RESPONSES:

The following is a brief summary of consultee advice (more details are contained within the assessment section of the report, where appropriate):

8.1 Statutory:

8.2 Coal Authority – No objection, subject to conditions regarding intrusive investigation, remediation and validation. Coal Authority concurs with the recommendations of applicant's Report on a Phase One Desk Study that coalmining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coalmining legacy issues on the site.

8.3 Sport England – No objection, subject to conditions. Clubhouse, changing room building and car park meet exception 2 (of Sport England's Playing Fields Policy and Guidance) which allows for the provision of ancillary facilities which support the principal use of the site as a playing field provided the proposal does not affect the quantity or quality of playing pitches or otherwise adversely affect their use. Proposed pitches meet exception 5 which allows for proposals if the proposed development is for an indoor or outdoor facility for sport, the provision of which would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss, or prejudice to the use, of the area of playing field. Applicant's Planning Statement contains little in the way of strategic justification for the proposed facilities, however Sport England has worked with the council and pitch sports national governing bodies in the preparation of the Kirklees Playing Pitch Strategy (PPS) which found a shortage of pitch capacity across most sports and age groups, and one measure identified to rectify this was the development of additional artificial grass pitches. A 3G pitch of the type proposed allows it to be used for both competitive football and rugby and can be used as intensively as it can be programmed. The hybrid pitch is still a grass pitch albeit interwoven with artificial fibres. This gives the pitch a much greater capacity for use than a standard grass pitch. The provision of both pitches is therefore in line with the broader recommendations of the Kirklees PPS. Comments and queries of Rugby Football League and Football Association relayed. Conditions recommended regarding details of pitches.

8.4 Lead Local Flood Authority – No objection, subject to conditions. Site is not suitable for soakaways due to made ground beneath the topsoil. The former use of the site indicates mining operations and as such, mobilisation of pollutants within the made ground is a risk. Disposal of surface water and under-soil drainage from the development should therefore be (via gravity and new headwall of a suitable design) to the small watercourse at the southeast corner of the site which drains into Lodge Beck. Strip of land between development and head of the watercourse is council-owned, under the control of Streetscene and Housing (Parks and Open Spaces) – permission should be sought from the council to allow drainage to discharge to this watercourse.

Yorkshire Water records indicate that a 300mm diameter foul sewer crosses the site south of the existing building – this sewer is for foul drainage only and should not be used for any surface water discharges.

Surface water and undersoil drainage flows from the access road, new car parking area, buildings and undersoil drainage should be limited to a rate of 5.0 l/s per hectare in line with the Kirklees Council drainage policy.

Conditions recommended regarding full drainage details and temporary (construction-phase) drainage. Drainage management and maintenance arrangements should also be secured.

- 8.5 KC Highways – No objection, subject to conditions. Findings of applicant's Transport Statement are accepted. With improvements to the track from Hunsworth Lane, the likely traffic demands of the proposed development can be accommodated. These improvement works are, however, outside the control of the applicant and are to be undertaken by the developers of the adjacent site, therefore a Grampian condition is needed, requiring the track improvements to be implemented prior to the playing fields development being implemented or brought into use. Proposed development does not include any works to a 30m section of the existing track between the end of the improvement works and the proposed development – this is not considered acceptable, the area is within the current application's red line boundary, and improvements works should be shown to be undertaken.

8.6 **Non-Statutory:**

- 8.7 KC Ecology – Applicant has not demonstrated compliance with NPPF chapter 15 or Local Plan policy LP30. Clarification required regarding bat activity surveys. Preliminary Ecological Appraisal (PEA) submitted; however an Ecological Impact Assessment (EclA) is required, based on up-to-date site plans and survey effort. Assessment of the baseline value of the site required, along with evidence to demonstrate a biodiversity net gain post-development utilising the Biodiversity Metric 2.0. New planting has not been detailed. Applicant's lighting plan indicates light spill of up to 10 lux at woodland areas, when impacts upon bats has been recorded at levels as low as 3.6 lux. Revised lighting strategy and plans required to illustrate how impacts to sensitive habitats and species are to be avoided. No loss of woodland cover should be permitted, and a 10% gain in woodland should be secured. Habitat creation/enhancement should also reflect the objectives of the Pennine Foothills Biodiversity Opportunity Zone and should aim to strengthen the Kirklees Wildlife Habitat Network.

- 8.8 KC Environmental Health – Part of the application site has been identified on the council's mapping system as potentially contaminated land due to its historical land use (site ref: 23/1). Applicant's Report on a Phase One Desk Study is satisfactory. Applicant's Report on a Geo-Environmental Investigation includes insufficient information regarding remediation, therefore a full detailed remediation strategy (including gas protection elements to be installed as necessary to protect the end-users) is now required. Three contaminated land conditions are accordingly recommended.

Proposed floodlighting may cause significant light overspill or glare that may impact nearby housing and may also cause unnecessary energy wastage. Proposed AAA-LUX floodlights can be dimmed, but it is unclear whether the

VAGO floodlights can. For the majority of the time the pitches would be used for low-level competition, falling under the scope of Lighting Class III, and an average maintained horizontal illuminance of 75 lux would be acceptable for pitches used for rugby football and netball, in accordance with BS EN 12193:2018. Applicant's proposed maintained average horizontal illuminance values are considered unacceptable. Further information required regarding horizontal illuminance and the proposed activities. Detailed lighting scheme required, including information regarding hours of operation, glare and stray light, vertical and horizontal illuminance, and switching and control of lighting. Condition recommended.

Proposed hours of use of the clubhouse and pitches have not been specified. Hours must be restricted by condition to protect residential amenity. Condition recommended regarding entertainment noise.

Condition recommended regarding electric vehicle charging.

- 8.9 KC Planning Policy – Taken as a whole the proposal constitutes inappropriate development in the green belt and is contrary to Local Plan policy LP56. Inappropriate development is by definition harmful to the green belt and should not be approved except in very special circumstances. Local authorities should ensure that substantial weight is given to any harm to the green belt and very special circumstances will not exist unless the harm by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Proposed pitches acceptable. Engineering required to create new pitches would not by itself significantly impact on openness or the character of the site, and the proposed pitches would facilitate outdoor sport at a site where such a use already exists. In principle, therefore, the proposed pitches are considered to be not inappropriate in the green belt. Pitches would also preserve openness and would not conflict with the purposes of including land in the green belt.

However, increased level of use (day and night), and 2.4m high fencing and floodlighting around the pitches, would have an impact on openness (although fencing could be considered reasonably required for the proper functioning of pitches in close proximity to each other, and there may already be some lighting associated with the existing changing rooms). Lighting would be highly visible despite screening from trees, and would be a significant intrusion into the surrounding countryside. Increased use, enclosures and floodlighting would introduce urbanising features into a green belt setting.

New changing room building would be an appropriate facility for outdoor sport as changing rooms would reasonably be required on such a site, however it is unclear why two changing buildings are required. A new building where no building currently exists would not preserve the openness of the green belt and the expansion of the site beyond its current limits would lead to encroachment into the countryside contrary to the purposes of including land within it. Proposed pasture land would not compensate for this loss, as the pasture land would be created where land is already free from development.

The proposed multi-function clubhouse building is not an appropriate facility for outdoor sport and therefore constitutes inappropriate development in the green belt.

There would be a requirement for additional car parking spaces as a reasonable consequence of the redevelopment of the pitches. However, car parking to serve the proposed clubhouse is inappropriate in the green belt as it would not preserve openness and would conflict with the purposes of including land in the green belt.

The 2015 Kirklees Playing Pitch Strategy (PPS) noted site has good quality football pitch with spare capacity, poor quality rugby pitch and poor-quality changing facilities. PPS also identified significant deficiencies in playing pitch provision within the Batley and Spen area for adult, youth and junior grass football, and a shortage of two 3G pitches. PPS stated that consideration should be given to role of artificial grass pitches (AGPs) in reducing shortfalls.

NPPF paragraph 99 protects existing open space and sports facilities from development unless: b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location. Proposed development would increase the site's pitches from two to four, providing an increase in match play and training sessions, and new facilities for netball. Replacement of grass rugby pitch with a synthetic pitch would allow for more intensive use. Applicant has not evidenced impact reduced size of grass football pitch would have on capacity for match play and usage. To address NPPF paragraph 99b, proposed increase in quantity and better quality of provision should be justified by evidence of existing usage and match play capacity compared to proposed capacity for match play sessions and potential usage, including any benefits for community use and how existing needs and shortfalls in football and rugby pitch provision in the area. Floodlighting of synthetic pitch would increase capacity for use into evenings/nights (and in principle appears appropriate, to allow additional capacity and match play), however floodlighting of all pitches appears unnecessary, given potential impact on wider area and nearby residential properties.

Local Plan policy LP50 protects sports facilities and supports creation of new outdoor sports facilities which help address deficiencies identified in the PPS, particularly proposals which help meet the significant shortfalls related to football. Subject to satisfactory evidence being provided, proposed development would accord with policy LP50 which requires replacement of sport facilities where of an equivalent or better compensatory provision (in terms of quantity and quality) within an easily accessible location for existing and potential new users.

- 8.10 KC Public Health – No objection. Proposed development would increase access to sport opportunities. Kirklees Playing Pitch Strategy notes there is a shortfall of 3G pitches in the borough. Proposals should be assessed with regard to where need is greatest, where impact would be greatest, and where socio-economic, health and environmental inequalities would be addressed. Duplication of facilities should be avoided. Proposed development has potential to increase use of sustainable modes of travel including cycling, walking, and by public transport and electric vehicle. Air quality impacts should be assessed. Appropriate highway safety mitigation should be proposed. Community access, including from schools and colleges, should be supported. Advice provided regarding healthier food and creating smoke free grounds.

- 8.11 KC Sport and Physical Activity – Kirklees has a shortfall of 3G pitches, and pitch quality issues. No objection in principle to improvement of facilities where this is done alongside relevant governing bodies and is enhancing the strategic offer.

Applicant is credible and has sought professional advice regarding the proposed development. Other clubs are understood to be interested in operating from the application site if proposed facilities are provided. Applicant intends to open the site for wider community access and to support other types of activity, thereby catering for more people, which is welcome.

Request more information as to how proposed development might promote and support sustainable active travel, and not be dependent on car access, as such facilities tend to draw people from a fairly wide geographical area and could lead to increased traffic and potentially air pollution.

Given that there have been recent facility developments of this type across the local authority boundary which may fall within the same catchment area, clarification needed to help the applicant and this project:

- Query if proposed development has the full support of the relevant National Governing Bodies (i.e., West Riding County FA and the Rugby Football League) and aligns with their strategic priorities.
- Query if applicant has indicative support for funding (given the proposed pitch types this would often be from the Football Foundation, RFL or Sport England, but may be from alternative sources) if planning permission can be secured.
- Query if applicant has access to the usual match funding that funders would expect, if that is a criterion of the identified funder.
- Query if the proposed development can be carried out without impacting on the existing clubs' playing seasons. If for practical reasons they cannot, query if applicant has identified where those clubs can operate from during any construction period.

- 8.12 KC Trees – No objection, subject to condition requiring landscaping details. Proposed development would not impact on any protected trees or any that meet the criteria for a new Tree Preservation Order to be served.

- 8.13 West Yorkshire Police Designing Out Crime Officer – Sports facilities are often targets for burglary, criminal damage and other crime due to their remote locations. Details requested regarding gates, doors, windows, shutters/grilles, bar security, storage, anti-climb measures, alarm system, CCTV, car park security, and cycle and motorcycle security.

- 8.14 Yorkshire Water – Endorse proposal to drain to a soakaway. Recommend condition requiring draining details (not involving discharge to the public sewer) and completion of satisfactory works.

- 8.15 Yorkshire Wildlife Trust – Applicant's Preliminary Ecological Appraisal (PEA) should be updated to an Ecological Impact Assessment (EclA) to consider all impacts and how they will be mitigated/compensated on site. This should include consideration for biodiversity net gain using (at least 10% net gain should be demonstrated). Additional site surveys may be required. Bat survey is in draft form and is incomplete. Applicant's recommendations appear to be generic and don't appear to have been adopted in proposals. Lux plan and information regarding retention of roosting and foraging potential for bats within trees, and regarding connective vegetation lines.

9.0 MAIN ISSUES

- Land use and principle of development
- Green belt impact
- Sustainability and climate change
- Urban design and landscape impacts
- Residential amenity and quality
- Highways and transportation issues
- Flood risk and drainage issues
- Environmental and public health
- Trees, landscaping and biodiversity
- Representations
- Other planning matters

10.0 APPRAISAL

Land use and principle of development

- 10.1 Planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
- 10.2 The application site is not allocated for development in the Local Plan. Most of the application site is within the green belt, and the impact of the proposed development upon the green belt is considered later in this report.
- 10.3 Section 14 of the submitted application form only refers to the use of the site as “playing fields”, however some land within the application site red line boundary is in fact agricultural land.
- 10.4 According to the applicant’s application form, no change of use (from the existing use for outdoor sport) is proposed at the application site. During the life of the application, the applicant withdrew a proposal to change the use of two parcels (one behind the existing single-storey building, and one at the southwest corner of the site) to sports use, and to change 700sqm of land at the south edge of the site (assumed to be land in sports use, although vegetated) to pasture land. Officers had advised the applicant that this swapping of uses was unnecessary in planning policy terms, and was problematic in relation to biodiversity impacts. Non-sport uses (including for entertaining and functions) are proposed for the new clubhouse, although limited detail of these uses (and to what degree they may be ancillary to the site’s sports use) has been provided by the applicant.
- 10.5 The NPPF supports the provision and development of facilities for outdoor sport and recreation and protects existing facilities. Paragraph 84 of the NPPF states that, to support a prosperous rural economy, planning decisions should enable the retention and development of accessible local services and community facilities, such as sports venues. Paragraph 92 states that planning decisions should aim to achieve healthy, inclusive and safe places which enable and support healthy lifestyles, especially where this would address identified local health and well-being needs, for example through the provision of safe and accessible green infrastructure, sports facilities, and layouts that

encourage walking and cycling. Paragraph 93 adds that, to provide the social, recreational and cultural facilities and services the community needs, planning decisions should plan positively for the provision and use of shared spaces, community facilities (such as meeting places and sports venues) and other local services to enhance the sustainability of communities and residential environments. Paragraph 98 recognises that access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change. It adds that planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate. Paragraph 99 states that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless, inter alia: the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

10.6 Similarly, policies in the Local Plan support the provision and development of facilities for outdoor sport and recreation and protect existing facilities. Policy LP47 states that the council will, with its partners, create an environment which supports healthy, active and safe communities and reduces inequality. It adds that healthy, active and safe lifestyles will be enabled by, inter alia: facilitating access to a range of high quality, well maintained and accessible open spaces and play, sports, leisure and cultural facilities; by increasing access to green spaces and green infrastructure to promote health and mental well-being; through the protection and improvement of the stock of playing pitches; by increasing opportunities for walking, cycling and encouraging more sustainable travel choices; and by creating high-quality and inclusive environments incorporating active design and the creation of safe, accessible and green environments. Policy LP50 is particularly relevant to sport and physical activity, and states that the council will seek to protect, enhance and support new and existing open spaces, outdoor and indoor sport and leisure facilities where appropriate, encouraging everyone in Kirklees to be as physically active as possible and promoting a healthier lifestyle for all. It adds that the enhancement of outdoor sports facilities through improving the quality and management of sites as identified in the Playing Pitch Strategy will be supported, as will the creation of new outdoor sport facilities which help address deficiencies in playing pitches identified in the Playing Pitch Strategy (particularly proposals which help meet the significant shortfalls in football). Policy LP50 states that support will be given to proposals which expand and enhance the range of indoor leisure facilities on offer in the district, provided this does not conflict with other Local Plan policies. Policy LP50 also affords protection to existing sports facilities, with similar allowances (for losses) to those set out in NPPF paragraph 99.

10.7 General support for the provision, protection and development of facilities for outdoor sport and recreation can also be found in various other documents, including the council's Playing Pitch Strategy (2015). Of particular note, that document supports Sport England's aims to enhance outdoor sports facilities through improving the quality and management of sites and to provide new

outdoor sports facilities where there is current or future demand to do so, and sets out further recommendations for Kirklees, including:

- Maximise community use of outdoor sports facilities where there is a need to do so;
- Improve pitch quality on poor quality sites;
- Rectify quantitative shortfalls through the current pitch stock; and
- Identify opportunities to add to the overall stock to accommodate both current and future demand.

10.8 With regard to likely future demands, the Playing Pitch Strategy notes an additional need for 3G pitches, anticipates increased demand for mini and youth football, and anticipates an increase in the number of women and girls taking part in football sessions.

10.9 The Kirklees Joint Health and Wellbeing Strategy (2014) and Kirklees Health and Wellbeing Plan (2018) recognise the importance of enabling physical activity. The Sport England documents listed in paragraph 6.10 of this report are also generally supportive of the provision, protection and development of facilities for outdoor sport and recreation.

10.10 In their initial comments and subject to conditions, Sport England did not object to the proposed development, and have advised that “exception 2” of their playing field policy allows for the proposed clubhouse, changing room building and car park, while “exception 5” allows for the proposed artificial and hybrid pitches at this site. Sport England also relayed comments from the Rugby Football League and the Football Association – these comments were generally supportive of the proposed development, but queried some aspects of it.

10.11 The council’s Sport and Physical Activity Development Manager noted that Kirklees has a shortfall of 3G pitches and pitch quality issues, welcomed the applicant’s intention to open the site for wider community access and to support other types of activity (thereby catering for more people), and raised no objection to the proposed development. Queries were raised, however, regarding whether the proposed development had the support of the relevant Governing Bodies, whether it would enhance the strategic offer, and how sustainable active travel would be promoted. Queries were also raised regarding funding for the proposed development, disruption during the construction period, and the catchment areas of other recently-developed sports facilities.

10.12 Some of the queries raised are not material considerations relevant to the current planning application. Of note, although the applicant has stated that the proposed clubhouse forms an essential part of the proposed development, no evidenced enabling or viability case has been made, therefore the funding of the proposed development is of limited relevance as a planning consideration. Furthermore, queries regarding catchment areas, and the risk of diluting or diverting custom from other facilities in an adjacent borough, are not relevant, except in relation to trip generation. The applicant has questioned the relevance of the queries, but nonetheless has (on 16/06/2021) provided the following responses:

- *The proposals improve existing facilities and attract new sports and clubs to the site who would otherwise fold due to lack of facilities. The facilities*

have witnessed a growth in the number of teams playing rugby league under the banner of Birkenshaw from one team to 14 teams including a girls team. It also provides a base for Gomersal and Cleckheaton football team. Whilst the individual teams have a dialogue with their governing bodies, EBCSA have not seen the need to engage as part of this planning application.

- We question the relevance to the planning process on how the development will be funded. As a charity EBCSA have invested substantially to get to this stage. They have over 50% funding secured to date for the next phase of development and a number of funding bids in train. The purpose of the planning application is to set out a future strategy for development. If planning permission is granted, the intention would be to proceed in a number of phases over the coming years.*
- The development would be planned and managed in a way that would cause as little impact as possible on the teams. Rugby and football only have a small window of overlap with rugby played throughout the summer. The first priority would be the $\frac{3}{4}$ pitch as this, when complete, would accommodate most of the juniors.*

10.13 Clearly, the proposed enhancement of outdoor sports facilities at the application site, the proposed broadening of the range of sports that can be played at the site, the development of facilities intended to cater for women and children, and other aspects of the proposed development are well supported by relevant policies.

10.14 The proposed clubhouse would extend into the space currently occupied by the site's grass football pitch, however given the pitch reprovision proposed by the applicant, criterion b of both Local Plan policy LP50 and NPPF paragraph 99 applies, and this aspect of the proposed development is not considered problematic in planning terms.

10.15 The site is within wider mineral safeguarding areas relating to sandstone and to surface coal resource (SCR) with sandstone and/or clay and shale. Local Plan policy LP38 therefore applies. This states that surface development at the application site will only be permitted where it has been demonstrated that certain criteria apply. Criterion b of policy LP38 is relevant and allows for approval of the proposed development as – given that the use of the site would not change, and given that the site would not be fully developed with new buildings in several private ownerships – the proposed development would not inhibit mineral extraction if required in the future.

10.16 Given the above assessment, and notwithstanding the other planning matters considered below, it is considered that the principle of improving and expanding outdoor sports facilities at this site, and of intensifying the site's existing use for outdoor sports, is policy compliant. The consequent enabling of (and increase in) sport participation and physical activity can be regarded as a significant public benefit which carries significant positive weight in the balance of planning considerations relevant to this application. Less positive weight, however, could be attached to these matters if it was established that the public benefit was not dependent upon this particular development proposal being implemented.

Green belt impact

- 10.17 Almost all of the application site is within the green belt, as is all land surrounding the main part of the application site. Part of the track is not within the green belt.
- 10.18 Paragraph 145 of the NPPF states that, once green belts have been defined, local planning authorities should plan positively to enhance their beneficial use, such as looking for opportunities to provide access and to provide opportunities for outdoor sport and recreation.
- 10.19 Paragraph 149 of the NPPF states that the construction of new buildings should be regarded as inappropriate in the green belt. Exceptions to this include “the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport [and] outdoor recreation... as long as the facilities preserve the openness of the green belt and do not conflict with the purposes of including land within it”.
- 10.20 For the new buildings (proposed as part of the proposed development) to be accepted as an exception under paragraph 149b of the NPPF, the applicant must demonstrate that the buildings are indeed for outdoor sport or outdoor recreation. If the development (or any part of it) is not intended for such use, it would fail to qualify under paragraph 149b, and must be deemed to be inappropriate in the green belt. Paragraph 149b also requires such facilities to preserve the openness of the green belt and to not conflict with the purposes of including land within it – again, if this requirement is not met, the development must be deemed to be inappropriate in the green belt.
- 10.21 Paragraph 150 of the NPPF states that certain other forms of development are also not inappropriate in the green belt provided they preserve its openness and do not conflict with the purposes of including land within it. The paragraph specifies what types of development can be considered in this way, and the prescriptive list includes “engineering operations”.
- 10.22 Much of the above restrictions on green belt development are reiterated in paragraphs 19.2 and 19.7 of the Local Plan. Policy LP56 in the Local Plan states that, in the green belt, proposals for appropriate facilities associated with outdoor sport or outdoor recreation will normally be acceptable as long as the openness of the green belt is preserved and there is no conflict with the purposes of including land within it. Proposals should ensure that: a) the scale of the facility is no more than is reasonably required for the proper functioning of the enterprise or the use of the land to which it is associated; and b) the facility is unobtrusively located and designed so as not to introduce a prominent urban element into a countryside location, including the impact of any new or improved access and car parking areas. For the avoidance of doubt, although the proposed buildings would be attached to the site’s existing single-storey building, Local Plan policy LP57 (regarding the extension, alteration or replacement of existing buildings within the green belt) is not considered relevant to this application, given the scale, nature and location of the newbuild parts of the proposed development.

- 10.23 The proposed replacement of the existing grass football pitch and grass rugby pitch with a 64m x 36.6m grass hybrid pitch, 100m x 68m 3G / synthetic pitch, a 95m x 68m grass rugby pitch and a 50m x 30m multi-sport training area is considered acceptable in relation to green belt policies (when considered separately from the associated fencing, floodlighting and other interventions that are also proposed). The engineering involved in creating these new pitches would not by itself significantly impact upon the openness or the character of the site – the submitted existing and proposed site sections (drawing 05 rev A) confirm that some reshaping of the land would be required to enable the provision of flat pitches, and that retaining gabion walls are proposed along the northern and southern edges of the proposed grass hybrid pitch, however these interventions are not considered significant in the context of a site of this size. It is noted that the existing site is not steeply sloped, therefore the scale of the proposed land reshaping would be relatively limited. In principle, therefore, the proposed pitches and training area are not considered to be inappropriate in the green belt, as they would preserve openness and would not conflict with the purposes of including this land in the green belt. This element of the proposed development complies with NPPF paragraph 150b.
- 10.24 Various fences and barriers already exist within and around the application site. These include 1.1m high white barriers around the existing grass football pitch, and along the north side of the existing grass rugby pitch. A taller catch net (in green) exists to the east of the grass football pitch, a 2.4m green mesh fence surrounds the site's single-storey building, and the site's perimeter is enclosed by post-and-wire fencing, as well as trees. Under the current application the applicant intends to erect 2.4m green mesh fencing around all three pitches and the training area, 6m high green mesh fencing (with taller catch nets to 11m) at both ends of the proposed 3G / synthetic pitch and the proposed grass rugby pitch, and re-used 1.1m high white barriers between the 3G / synthetic pitch and the rugby pitch, and adjacent to the multi-sport training area. This represents a significant increase in the extent of enclosure at the application site.
- 10.25 There are currently no floodlighting columns at the application site. Under the current application, the applicant previously proposed 14 new floodlighting columns, however during the life of the application this was reduced to 11 (with a further two floodlights fixed to the proposed changing facilities building), with none now proposed along the southern edge of the southernmost pitch. The applicant's lighting plan has not been updated accordingly, however it is understood that the six columns surrounding the 3G / synthetic pitch would be 15m high, the northernmost (grass hybrid) pitch would have two columns 10m in height (and would receive light from the adjacent 15m columns), and the multi-sport training area would have three columns 8m in height. The applicant has not stated that these would be retractable, and it is therefore understood that the floodlighting columns would be permanently fixed at this height. Several luminaires would be fitted to each of the proposed columns.
- 10.26 The proposed fencing, barriers and floodlighting columns are considered to be appropriate facilities (in connection with the existing use of the land) for outdoor sport. Fencing and barriers are reasonably required to ensure the proper functioning of pitches in close proximity to one another, to prevent balls straying onto adjacent land, and to separate spectators from playing areas. Floodlighting is considered to be reasonably required in association with the

extended hours of use that the applicant proposes. The proposed fencing, barriers and floodlighting columns therefore comply with the first requirement of paragraph 149b of the NPPF (namely, that the facilities are for outdoor sport). However, due their extent, heights and locations, the proposed fencing, barriers, floodlighting columns and the associated light would significantly intrude into the generally open, undeveloped, unlit and largely green site and its surroundings, would impact upon openness, and would introduce urbanising features into a green belt setting, including during hours after dark. As demonstrated by the applicant's floodlighting drawings and illuminance information, the proposed lighting would be highly visible, and surrounding trees would only provide limited screening. These elements of the proposed development therefore fail to comply with the second requirement of paragraph 149b (namely, that the facilities must preserve the openness of the green belt and does not conflict with the purposes of including land within it). They cannot, therefore, be regarded as appropriate in the green belt.

10.27 The applicant proposes the erection of an additional changing facilities building to the immediate north of (and attached to) the existing single-storey building. It is accepted that the proposed building is indeed an appropriate facility (in connection with the existing use of the land for outdoor sport). Although the Football Association (in comments relayed by Sport England) queried the number of changing rooms previously proposed (when a larger new building was shown on the applicant's drawings), it is noted that four pitches are proposed at the site, that eight teams may be using pitches at any one time, and that teams with later bookings may need to use the changing rooms before other teams have left the site. Again, the first requirement of NPPF paragraph 149b is complied with. However, the proposed building does not strictly comply with the second requirement of paragraph 149b, as it is a new building with a monopitched roof (and, therefore, a tall north elevation) which does not preserve the openness of the green belt and which conflicts with the purposes of including land within it. It cannot, therefore, be regarded as appropriate in the green belt, although it must be noted that the impact of the new building upon openness is somewhat limited by its modest footprint (which has been reduced during the life of the application) and its location to the north of the existing building.

10.28 The floor plan of the proposed clubhouse confirms that it would accommodate a bar, a snack bar, a kitchen and two store rooms. A patio would be built outside it. While it is understood that the clubhouse would be used by players and spectators for refreshment in connection with the use of the majority of the application site for outdoor sport, and although the applicant has stated that the clubhouse is an essential part of the proposed development, there is no evidence to suggest that outdoor sport could not be carried out, increased or intensified (thus achieving public benefit) at the application site without the clubhouse in place. Furthermore, on 25/10/2021 the applicant confirmed an intention to hire out the clubhouse for functions, and that the internal capacity clubhouse would be 150 people maximum (25 in the bar and 125 in the large internal room). Clearly, this part of the proposed development would introduce non-sport uses to the application site, and it cannot be concluded that the clubhouse is an appropriate facility that is entirely "for outdoor sport". The clubhouse would also not preserve the openness of the green belt and would conflict with the purposes of including land within it. Again, however, it must be noted that the impact of the new building upon openness is somewhat limited by its relatively modest footprint and height. The clubhouse nonetheless fails to meet both requirements of paragraph 149b of the NPPF,

and it cannot, therefore, be regarded as appropriate in the green belt. The applicant has declined an invitation to delete the contentious clubhouse from the proposals.

- 10.29 Storage areas are annotated on drawing 04 rev G, at the corners of the proposed 3G /synthetic pitch. These are proposed for the storage of movable goals, dug-outs, nets, pads, flags, line markers, and other relevant equipment. At two of these storage areas, repurposed shipping containers measuring 6m (length) x 2.5 m (width) x 2.6m (height) are proposed. At the other two areas, sport equipment would be stored in the open air. Given their intended use, the two containers would meet the first requirement of NPPF paragraph 149b, but not the second, as they are structures which would not preserve the openness of the green belt and which conflict with the purposes of including land within it. The containers cannot, therefore, be regarded as appropriate in the green belt, although it must be noted that their impact upon openness is somewhat limited by their size.
- 10.30 Any assessment of the proposed development's impact upon the openness of the green belt must take into account the cumulative impact of all parts of the proposed development. While it is noted in the above paragraphs that the impacts of some elements – considered in isolation – would be limited by their size and location, when considered together the proposed clubhouse, changing facilities building, fencing, barriers, floodlights and goal stores would have a significant impact upon openness.
- 10.31 The application site's existing car park has an unsealed (compacted stone) surface, and parking spaces have not been formally marked out. The submitted Transport Statement puts the existing car park capacity at around 60 to 70 vehicles, with space for overspill parking on an adjacent grassed area. Under the current application the applicant initially proposed to provide a 150-space car park with a formalised layout, however during the life of the application this was reduced to 113 spaces. It is accepted that there would be a requirement for additional car parking spaces as a reasonable consequence of the proposed net increase in the number of pitches at the application site, and the longer hours of use that the applicant anticipates. These spaces can only be considered appropriate in the green belt in association with the site's outdoor sport use – any parking associated with the non-sports use of the clubhouse would fail to comply with the first requirement of NPPF paragraph 149b. It is, however, noted that some visitors to the site would participate in outdoor sport and may then make use of the proposed clubhouse, making it difficult to ascertain how much of the use of the proposed car park would comply with the first requirement of paragraph 149b. For the same reason, it would prove difficult to enforce the use of the car park only in connection with outdoor sport activity. Given these considerations, given the size of the existing informal car park, given the applicant's recent amendment to the proposed car park's size, and given that the second requirement of paragraph 149b would be complied with (the proposed car park would have little new impact upon the openness of the green belt and would not conflict with the purposes of including land within it), it is considered that the proposed car park can be regarded as appropriate development in the green belt.
- 10.32 Consultees have suggested that the proposed intensification of the site's use (including its increased level of use during the day and night) in itself would have an adverse effect on openness. This is not accepted, given that the use of site could potentially be intensified anyway without the need for

interventions requiring planning permission. It would be difficult to argue that the presence of people on the site's pitches, or an increase in their number and the regularity of their visits, would adversely affect openness.

10.33 Local Plan policy LP56 reiterates the NPPF's requirements for outdoor sport facilities in the green belt to preserve its openness and to not conflict with the purposes of including the land within it. Where elements of the proposed development do not comply with those requirements of the NPPF, so to do they fail to comply with this Local Plan policy.

10.34 Policy LP56 adds further requirements related to the scale of and need for the proposed facilities, and in response the applicant has provided further information regarding the levels of use of the existing grass pitches throughout the year, as follows:

Football (juniors):

- 3x teams playing on average 15 home games between July and April: 2 hours x 45 games = 90 hours
- 3x teams training twice a week between July and October: 96 unique 1-hour training sessions = 96 hours

Football (open age):

- 3x teams playing on average 15 home games between July and April: 2 hours x 45 games = 90 hours
- 3x teams training twice a week between July and October: 96 unique 1-hour training sessions = 96 hours

Summer football camps for children (c60 children a day):

- Easter camp: 3 days x 5 hours per day = 15 hours
- May Spring bank holiday: 3 days x 5 hours per day = 15 hours
- Summer: 4 x 3 days x 5 hours per day = 60 hours

Evening football sessions:

- Friday evenings (17:30 to 19:30) for 12 weeks in June/July/August: 12 x 2 hours = 24 hours

Rugby League (juniors):

- 11x teams playing on average 15 games per season between March and November: 165 games x 2 hours = 330 hours
- 11x teams training at least once a week during the entire period covering March to November = 396 hours

Rugby League (open age):

- 1x team on average 15 games per season between March and September: 15 games x 2 hours = 30 hours
- 1x team training twice a week = 56 hours

Rugby League Masters (over +35s):

- 1x team on average playing 10 games per season throughout the year: 10 games x 2 hours = 20 hours

10.35 Referring to the above information, the applicant stated that the existing pitches are used far more than recommended by relevant bodies. The applicant provided a link to a Sport Scotland document that advises that typical expected usage for a well-constructed and well-maintained grass pitch is six to eight hours per week. Online advice provided by the Grounds Management Association refers to between two and six hours of adult use, but does not clarify if this is over a week or other period, and in any case this online guidance notes that the playability or reliability of a pitch depends on many factors including management and maintenance, type of construction, soil

profile, type of use, prevailing weather conditions and whether adults or juniors use the facility. The council's Playing Pitch Strategy (2015) does not note overplay as a problem at the application site, however it describes the site's rugby pitch as "one poor quality pitch played to capacity by Birkenshaw RLFC", and it is noted that that document is now six years old and the level of play at the site is known to have increased in recent years.

- 10.36 The applicant has stated that the proposed development is intended to address existing capacity shortfalls at the application site, as well as other deficiencies. The existing pitches are not truly flat, they are not well drained, the site does not provide adequate opportunities for other sports (such as netball) to be played, and there is no floodlighting. In response to the council's consultation on the application, Sport England commented that a 3G / synthetic pitch of the type proposed by the applicant would allow it to be used for both competitive football and rugby, and it could be used intensively. Sport England also commented that the interwoven artificial fibres of the proposed hybrid pitch would give it a much greater capacity for use than a standard grass pitch. The council's Sport and Physical Activity Development Manager noted that other clubs are understood to be interested in operating from the application site if the proposed facilities are provided, and that the applicant intends to open the site for wider community access and to support other types of activity, thereby catering for more people. In light of the application site's shortcomings, the apparently strong demand for use of the site, the borough-wide deficiencies noted in the council's Playing Pitch Strategy and in the comments of Sport England, it is accepted that the proposed development would do much to improve the existing situation, and that the scale of the proposed facilities are no more than is reasonably required for the proper functioning of the enterprise and the use of the land. The requirements of Local Plan policy LP56 regarding scale and need are therefore met.
- 10.37 Local Plan policy LP56 also requires outdoor sport facilities in the green belt to be unobtrusively located and designed so as not to introduce a prominent urban element into a countryside location. This part of the policy also applies to the impact of any new or improved access and car parking areas. For the reasons set out in paragraphs 10.24 to 10.30 above, it is considered that many of the proposed interventions at the application site would be obtrusively located and would introduce a prominent urban element into a countryside location, thus failing to comply with this requirement of policy LP56. For the reasons set out in paragraph 10.31 above, it is considered that the proposed car park would not be obtrusively located (relative to the existing provision) and would not introduce a prominent urban element into a countryside location. Most of the existing track between Hunsworth Lane and the playing fields is outside the green belt. The section of track within the green belt would be upgraded but would not become significantly prominent in this countryside location.
- 10.38 In summary regarding green belt impacts, the proposed development presents a mixed picture in terms of policy compliance. The proposed pitches, car park and intensification of use of the site are considered appropriate development in the green belt. The proposed changing room building, fencing, barriers, floodlighting and goal stores meet the first requirement of NPPF paragraph 149b (in that they are appropriate facilities for outdoor sport) but not the second (in that they would not preserve the openness of the green belt and would conflict with the purposes of including land within it). The proposed clubhouse is entirely non-compliant with paragraph 149b. Much of the

proposed development fails to meet the requirements of Local Plan policy LP56. It is concluded that, taken as a whole, the proposed development constitutes inappropriate development in the green belt.

10.39 In this situation, regard must be had to paragraph 147 of the NPPF, which states that inappropriate development is, by definition, harmful to the green belt and should not be approved except in very special circumstances. Paragraph 148 states that, when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the green belt, and that “very special circumstances” will not exist unless the potential harm to the green belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

10.40 The applicant initially argued that very special circumstances did not need to be demonstrated for any part of the proposed development, but provided the following commentary on 16/06/2021 regarding the proposed clubhouse:

This is a key component of any sports club but is often lacking due to lack of funds. It is the heart of the club providing important space for club-related activities and amenities pre- and post-match. It enables clubs to generate an income from the spend of visiting clubs. Indeed, the rugby league etiquette at grass roots level is that post match food is provided to all visiting teams. At the moment the clubs have to find an external venue off site to facilitate this. The on-site provision is far more sustainable.

That said, the clubhouse is far more than that and is the heart of the facilities. The facility caters for a number of clubs and sports with over 800 participants across the member organisations. In addition, as well as assisting clubs in their administration and fund raising, it will also be used by community outreach organisations who work closely with Kirklees representatives to improve access to sporting and community facilities.

The proposed clubhouse at EBCSA has been carefully designed and located around the existing changing rooms on site and provides improved changing rooms and minimal facilities within the club house. It is a low profile, single storey design that minimises any impact on the openness of the green belt.

We consider the club house to be an appropriate facility in connection with the use of the site for sporting activities. It is more necessary in this case given the multi sports activities being offered on site.

10.41 Notwithstanding the above position, the applicant nonetheless argued that very special circumstances did in fact exist and outweighed any harm by way of inappropriateness and any other harm. The applicant stated:

This is not a single user site. Under the umbrella of the EBCSA the facilities are provided for rugby league, football and netball with each sport having a number of teams under their activity. The venue provides an important and safe base for these facilities that would be shared by all these teams who, if not here, would have to find alternative provision elsewhere. This may not be possible and could see these clubs and individuals lost to their sports.

This is a somewhat unique position. The clubhouse and changing rooms have been designed to minimise any impact on openness, providing minimal facilities for the use and being single storey buildings clustered together.

These would amount to very special circumstances to improve and maintain sporting facilities on the site for existing and new users (netball) that may be lost if not provided.

- 10.42 Later, on 24/09/2021, the applicant acknowledged the need to demonstrate very special circumstances to justify the proposed clubhouse and referred to documents published by the Football Association (FA) and the Rugby Football League (RFL). The FA document relates to football teams playing at ground grading level G / step 6 of the National League System (which is applicable to Gomersal and Cleckheaton FC's teams), and states that at grounds used by such teams there must be a clubhouse facility either on or adjacent to the ground, which must be open on match days to provide refreshments to spectators. The RFL document sets out minimum standards criteria for the National Conference League and requires clubs to house within their own grounds a clubhouse in which essential facilities exist to provide hospitality in respect of visiting teams, their personnel and match officials appointed to service games. These standards are noted, however they relate to the requirements of league participation, rather than to what may be needed to enable physical activity.
- 10.43 On 04/11/2021 the applicant submitted a letter of support for the proposed development from the Chairman of Birkenshaw Blue Dogs ARLFC. This letter noted that the lack of an on-site clubhouse has limited the club's ability to welcome away teams and supporters (which is an important part of instilling the core value of "respect" in sport, both on and off the pitch), and has forced the club to divert funds away from local community sport activity in order to meet pre- and post-match hospitality obligations. The letter also states that the site's limited facilities mean the club is not able to offer a pathway for talented young players to progress to the highest level in grassroots rugby league, resulting in some players not continuing their involvement in the sport. A letter of support from the Club Secretary of East Bierley Village FC was also submitted, stating that an on-site clubhouse would generate income, would provide a venue for annual presentation evenings, and would result in less on-street parking in the village as players and spectators would no longer need to visit other venues for post-match hospitality. A letter from the Chairman of Gomersal and Cleckheaton FC was also submitted by the applicant, stating that the proposed development (including the proposed clubhouse) would enable funds to be generated and directed towards improving the delivery of sport to the local community.
- 10.44 Little information has been submitted regarding what quantifiable level of public benefit would still be achieved if the proposed pitches were provided without all (or with fewer) of the interventions currently proposed in the green belt, particularly the contentious clubhouse. The applicant has not explained whether likely or secured funding for the proposed development (or other projects that might generate public benefit) is dependent upon all elements of the proposed development being delivered. Although the desire to locate the clubhouse close to the pitches is understood, details of alternative locations (considered but rejected as unsuitable by the applicant) have not been submitted. Although it is noted that the proposed changing facilities building has been reduced in size and relocated during the life of the application,

alternative designs for the clubhouse, which could minimise its impact upon the openness of the green belt, appear not to have been considered by the applicant. In an early submission the applicant stated that – without the proposed development – clubs would fold due to a lack of facilities, however no evidence of this has been provided.

- 10.45 Other matters have been considered by officers for their relevance as potential “very special circumstances”. A borough-wide need for additional 3G pitches is acknowledged, however more pressing need for such facilities is likely to exist in other parts of the borough which are more densely populated, and which are not within relatively close proximity to existing and forthcoming facilities across the borough boundary (see paragraph 10.54 below). It is again recognised that the proposed development would enable and increase participation in sports and physical activity, and that these are public benefits. However, the applicant has not demonstrated that these public benefits (which could carry weight as very special circumstances) could only be delivered by this particular proposal or could not be delivered without causing harm to the green belt. The applicant’s claim that the design of the proposed clubhouse and changing facilities minimise any impact on openness cannot in itself be regarded as very special circumstances. Finally, it is noted that planning policies and guidance (listed at paragraphs 10.5 to 10.9 of this report) generally support the provision and development of facilities for outdoor sport and recreation, however compliance with those policies does not constitute very special circumstances, and there is no allowance within the wording of those policies for development that would normally be considered inappropriate in the green belt – proposals that are well supported by these policies would also be required to comply with policies relating to the green belt.
- 10.46 The applicant has referred to an alleged precedent at the Lepton Highlanders ground at Wakefield Road, Lepton, where planning permission has been granted at a green belt site for the erection of a sports and social club building in the green belt. It is noted, however, that permission for that development was originally granted in 1997, and then renewed in 2003 (refs: 97/91434 and 2002/93779), prior to the publication of the first NPPF, and prior to the adoption of the Local Plan. Furthermore, that scheme did not involve the fencing, floodlighting and other interventions proposed at the current application site. The two schemes are not considered to be comparable.
- 10.47 The applicant has referred to a June 2021 appeal decision relating to a scout hut proposed at Holmesfield, Derbyshire. In that decision an Inspector determined that, while the proposed development was inappropriate in the green belt, the needs of the local scout group and the proposed provision of a community facility for children were material considerations that outweighed the harm to the green belt. The Inspector therefore concluded that very special circumstances existed, and the appeal was allowed. Officers have considered this appeal decision, however it clearly relates to a development of a different scale and nature (to that proposed at East Bierley Playing Fields) where different local planning policies apply and where a different range and balance of considerations were weighed. It is not relevant to the current application.

- 10.48 With all of the above taken into account, officers noted the public benefits of the proposed development, but concluded that a complete and convincing case for the proposed development had not been made. Noting that the NPPF sets a very high bar for allowing inappropriate development in the green belt, it was concluded that very special circumstances had not been demonstrated.
- 10.49 The applicant subsequently submitted further information regarding the additional hours of physical activity that the proposed development would enable. To enable comparison with the site's existing capacity (and to enable the public benefit to be quantified), headline "person hours" figures were provided. The applicant confirmed that – taking into account all the teams currently using the site, their home fixtures and training sessions, additional sports camps and hours lost to pitch recovery, darkness and the weather – approximately 9,825 person hours of physical activity are currently undertaken at the application site per year (comprising 3,136 person hours for football and 6,689 person hours for rugby). With the proposed development implemented without the proposed floodlighting, this headline figure would increase to 21,809 person hours per year (14,321 for football, 7,488 for rugby). With the proposed floodlighting (and the 792 hours of additional play it would allow per year), this headline figure would increase further (and significantly) – based on member club usage alone, a further 10,088 person hours would be added to the above 21,809 figure, however an even higher figure would be possible given that member clubs would not use all of the 792 floodlit hours. The actual total figure resulting from the proposed development being implemented in full would depend upon take-up from teams hiring the pitches.
- 10.50 The applicant also submitted further information regarding the potential use of the site by the local community, confirming that the proposed pitches would be available for use by teams and people outside the member clubs. Total lettable hours at the site currently stand at 956 per year, and this would increase to 2,914. The applicant has stated that a commitment to community use is enshrined in the EBCSA's charter, and that the organisation has an appointed Community Liaison Officer who works with the council, and who has contacted the East Bierley Primary School and the East Bierley Preservation Society to ascertain what demand exists for the facilities. The applicant also provided officers with details of booking arrangements for the existing pitches, including rates of £25 per hour (with facilities) or £15 per hour (pitch only), with discounted rates applicable for some organisations and charities. The applicant is a community organisation, East Bierley Village FC already play at the application site, and the applicant is willing in principle to prepare a Community Use Agreement (or similar document) related to the site's immediate local community. As noted earlier, the council's Sport and Physical Activity Development Manager welcomed the applicant's intention to open the site for wider community access and to support other types of activity, thereby catering for more people.
- 10.51 The applicant's recently-submitted additional information regarding community use and physical activity (that would be enabled by the proposed development) carries significant positive weight, particularly in the context of the borough's public health needs and the adopted policies and strategies intended to encourage and enable active lifestyles and participation in sport. With the significant public benefits of the proposed development now clearly illustrated, very special circumstances have been demonstrated. These enable the entirety of the proposed development (including the proposed

clubhouse, which has not been fully justified in relation to outdoor sport but which the applicant has stated is integral to the development of the site and the future of its facilities and operation) to be viewed favourably in relation to green belt policies in the NPPF and the Local Plan.

- 10.52 In conclusion regarding green belt impacts, it is again noted that, taken as a whole, the proposed development constitutes inappropriate development in the green belt. However, very special circumstances have been demonstrated by the applicant, to allow approval of the development under NPPF paragraph 148. The same considerations outweigh the proposed development's non-compliance with Local Plan policy LP56. It is therefore not recommended that planning permission be refused for the proposed development in relation to green belt impacts.

Sustainability and climate change

- 10.53 As set out at paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF goes on to provide commentary on the environmental, social and economic aspects of sustainable development, all of which are relevant to planning decisions. Several aspects of the proposed development are relevant to sustainability and climate change.
- 10.54 East Bierley already has football, rugby, cricket and golf facilities (such that it is better equipped than many other villages in relation to outdoor sport). It is also noted that publicly accessible floodlit astro turf and 3G pitches already exist less than 1km to the north of the application site at the Tong Leadership Academy site, and that more pitches are to be provided as part of the Wyke Community Sports Village project, approximately 4km to the west of the application site. It is, however, noted that no grass hybrid pitch, 3G/synthetic pitch or multi-sport training area currently exists in East Bierley or Birkenshaw. The BBG Academy at Birkenshaw only has grass pitches. Within Kirklees, the nearest existing 3G pitches are at the Batley Sports and Tennis Centre, the St John Fisher Academy (Dewsbury), and the Dewsbury Rams RLFC ground. The 2015 Kirklees Playing Pitch Strategy (PPS) found that the application site's rugby pitch was of a poor quality.
- 10.55 The proposed provision of new and replacement outdoor sports facilities at the application site would potentially shorten the travel distances currently covered by local people wanting to use such facilities. On the other hand, given the current borough-wide scarcity of such facilities, the proposed provision may also attract users and encourage travel to East Bierley, at least until similar and sufficient facilities are provided across adjacent parts of Kirklees and the neighbouring boroughs. Given the limited public transport provision in this part of Kirklees, it is reasonable to assume that the majority of these visitors are likely to travel by car. Furthermore, given East Bierley's other facilities and attractions (the village currently has a pub, sports facilities, a primary school, a hairdresser, a florist / food shop and churches), the potential for combined trips (thus reducing travel overall) is limited. A development at this site which was entirely reliant on travel by private car is unlikely to be considered sustainable.
- 10.56 To help ensure that any such additional travel (generated by the proposed development) is minimised and made as sustainable as possible, a range of measures would need to be implemented, including the provision of cycle

parking facilities and electric vehicle charging points at the application site. A Travel Plan would also need to be devised and implemented – this would need to include a range of measures (such as a car-sharing scheme, encouragement of walking and cycling, and dissemination of public transport information) intended to encourage the use of more sustainable modes of transport. These matters are considered later in this report.

- 10.57 Drainage and flood risk minimisation measures would need to account for climate change. These matters are considered later in this report.
- 10.58 The requirement for a biodiversity net gain to be delivered is considered later in this report.
- 10.59 Of note, relatively little newbuild is proposed as part of the development (and relatively limited material and energy would therefore be required for those elements), and the applicant intends to re-use existing barriers and repurpose shipping containers for goal storage. On the other hand, virgin materials are likely to be used in the proposed buildings and car park surfacing, and the applicant has not provided information regarding the manufacturing process, longevity and recyclability of the artificial materials proposed for the grass hybrid pitch, 3G/synthetic pitch or multi-sport training area. Natural and organic alternatives to plastic can be used in hybrid and synthetic pitches, and online guidance is available regarding minimising microplastic loss from pitches.
- 10.60 Energy use at the site would increase were the development to be implemented, particularly given the proposal to floodlight the site (whereas the existing pitches are currently entirely reliant on natural light). A condition is recommended, requiring the submission of details of low-energy lighting and measures to avoid wasteful light spillage, to ensure energy use is minimised.
- 10.61 Further reference to, and assessment of, the sustainability of the proposed development is provided later in this report in relation to transport and other relevant planning considerations.

Urban design, conservation and landscape impacts

- 10.62 Chapters 11 and 12 of the NPPF, and Local Plan policies LP2, LP24 and LP32 are relevant to the proposed development in relation to design, as is the National Design Guide. Green belt impact is considered earlier in this report.
- 10.63 The application site has some visual sensitivity. Although it is located away from the highways and built-up areas of East Bierley and Birkenshaw (and is largely screened from view from many public vantagepoints within those settlements by the intervening topography and vegetation), the application site is visible or partly visible from some adjacent properties, from public footpaths SPE/3/50 and SPE/168/10 to the south and east, and in longer views from the south.
- 10.64 Taken as a whole, the proposed development would be a significant intervention at a previously-undeveloped site, and would significantly intrude into its setting. Of note, the application site is not a peripheral or edge-of-green belt location – it is located away from the built-up areas of East Bierley and Birkenshaw, and the main part of the application site is surrounded by green belt land, meaning any intrusion into this undeveloped space would have all

the more impact upon openness. Local Plan policy LP24 requires the form, scale and layout of all development to respect and enhance the character of the landscape, while policy LP32 states that proposals should be designed to take into account and seek to enhance the landscape character of the area. Neither of these policy requirements would be met by the proposed development. However, it is considered that the public benefits of the proposed development (which, as detailed earlier in this report, constitute very special circumstances of relevance to green belt impacts) carry sufficient weight as material planning considerations to outweigh the landscape and visual harm that would be caused. The proposed development's non-compliance with Local Plan policies LP24 and LP32 is also outweighed.

- 10.65 Notwithstanding the wider landscape impact of the proposed development, most of the details of the proposed interventions are considered acceptable. The proposed clubhouse would have a pitched roof to match the existing changing room building. Although the submitted application form indicates that brick and render would be used for the new buildings, recently-submitted drawings indicate that artificial stone and timber cladding would be used. A condition is recommended, requiring the submission of details and samples of all materials, including walling materials which will need to respond appropriately to those of the site's existing building. The materials and colours of the proposed fencing and barriers are considered acceptable. A condition is recommended, requiring the proposed two storage containers to be painted the same green colour as the proposed fencing.
- 10.66 Although the application site red line boundary meets the boundary of the East Bierley Conservation Area the junction of the track and Hunsworth Lane, no development is proposed within this part of the application site under the current application (improvement works to the track are in fact proposed under application ref: 2019/93616 which relates to a nearby residential development). The fences proposed along the north side of the proposed grass hybrid pitch would be approximately 150m away from the nearest conservation area boundary, and approximately 270m away from the conservation area's core (The Green). Furthermore, the proposed fencing and new buildings would be largely screened from view from public vantagepoints within the conservation area by the intervening topography and vegetation. It therefore considered that the proposed development would not affect the setting of the conservation area.
- 10.67 There are no listed buildings within or close to the application site. Historic field boundaries surrounding the site are undesignated heritage assets, and these would not be affected by the proposed development.
- 10.68 A condition related to secure by design measures is recommended to address the comments of the West Yorkshire Police Designing Out Crime Officer, who has noted that sports facilities are often targets for burglary, criminal damage and other crime due to their remote locations.
- 10.69 No details of boundary treatments around the site perimeter have been submitted. A condition is recommended, requiring details of all boundary treatments, and of the retaining gabion walls proposed along the northern and southern edges of the grass hybrid pitch, for which no details have been submitted.

Residential amenity and quality

- 10.70 Local Plan policy LP24 requires developments to provide a high standard of amenity for future and neighbouring occupiers, including by maintaining appropriate distances between buildings. Policy LP52 states that proposals which have the potential to increase pollution from noise and light must be accompanied by evidence to show that the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, so as to ensure it does not reduce the quality of life and wellbeing of people to an unacceptable level or have unacceptable impacts on the environment. Where possible, all new development should improve the existing environment.
- 10.71 The rear elevation of 612 Hunsworth Lane is approximately 90m away from the main part of the application site, however the track leading to the playing fields runs along the side boundary of that residential property. Dwellings to the west are some 130m (or more) away from the edge of the application site. Dwellings to the north on Soureby Cross Way are located some 150m away. Should the nearby allocated site HS89 be developed as per application ref: 2019/93616, new residential properties would be located approximately 35m away from the proposed car park, grass hybrid pitch and nearest floodlights.
- 10.72 Floodlighting of outdoor pitches on the scale proposed by the applicant risks causing harm to the amenities of neighbouring residential properties through overspill and glare. KC Environmental Health commented that the applicant's lighting proposals included unacceptable maintained average horizontal illuminance values and appeared to exceed what would be required for low-level competition (falling under the scope of Lighting Class III, where an average maintained horizontal illuminance of 75 lux would be acceptable for pitches used for rugby football and netball, in accordance with BS EN 12193:2018), and noted that while the proposed AAA-LUX floodlights could be dimmed, it was unclear whether the proposed VAGO floodlights could be.
- 10.73 In response, the applicant amended the outdoor lighting proposals by removing floodlights from the southern edge of the site (amended in light of biodiversity concerns), however the applicant's horizontal illuminance levels plan (UKS17805/1) has not been updated, and the applicant has declined invitations to address the other concerns at application stage, preferring instead to defer this matter to conditions stage. As KC Environmental Health have suggested that this matter can indeed be addressed via a condition (requiring a detailed lighting scheme, including information regarding hours of operation, glare and stray light, vertical and horizontal illuminance, and switching and control of lighting), it is not recommended that planning permission be refused on these grounds.
- 10.74 The applicant provided no details of hours of use (of the proposed development) in the initial submission. KC Environmental Health have recommended that – given the proximity of existing residential properties – a noise control condition be applied in respect of the clubhouse, and that the following restrictions on hours should be applied:

Pitches

- 09:00 and 20:30 Monday to Friday; and
- 09:00 to 13:00 Saturday, Sundays and Bank Holidays

Clubhouse

- 09:00 to 23:00 Monday to Saturday; and
- 10:00 to 22:30 Sundays and Bank Holidays

- 10.75 In response, the applicant has argued that due to summer fixture commitments, pitch use should be allowed until 21:00 (Monday to Friday) and 16:00 (Saturday, Sundays and Bank Holidays), with a further 15 minutes allowed for tidy-up. This is considered reasonable, given that there are currently no planning restrictions on the hours of use of the existing pitches, and given the hours of use considered acceptable at other sites (for example, Holmfirth High School, where pitches are proposed (for use until 21:00 on some winter weekdays) at a site closer to residential properties – ref: 2020/90640).
- 10.76 Although not requested by officers, on 04/11/2021 the applicant submitted an Acoustic Planning Report, which concludes that there are no significant issues associated with the operation of the proposed development, and that a low noise impact would be expected from normal operating conditions of the site.
- 10.77 The proposed development would result in increased activity along the track between Hunsworth Lane and the playing fields. Should the nearby allocated site HS89 be developed as per application ref: 2019/93616, the traffic of the 46 dwellings of that development would also use the same track. For that development, it was considered that residents of some existing properties on Hunsworth Lane could experience greater levels of everyday noise and disturbance associated with that development's traffic, however it was noted that Hunsworth Lane is already used by through-traffic, and those impacts were not considered to be so great as to warrant refusal of planning permission. With the additional traffic of the proposed playing fields development taken into account, amenity impacts are still considered to be acceptable, provided that the track is indeed upgraded (to reduce surface noise and to enable traffic to flow freely), and provided that appropriate travel planning is implemented to ensure additional traffic is minimised as far as possible.

Highway and transportation issues

- 10.78 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development will normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.
- 10.79 Paragraph 110 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 111 of the NPPF adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.

- 10.80 The application site's only vehicular access is via the track which connects the playing fields with Hunsworth Lane. This track is substandard in terms of width, pedestrian provision and construction standard, and is unsuitable for any intensification in use without considerable improvement.
- 10.81 Should the nearby allocated site HS89 be developed as per application ref: 2019/93616, the northernmost stretch of the track would be upgraded with a 5.5m carriageway and two 2m-wide footways proposed between Hunsworth Lane and the residential site entrance. The applicant for that application intends to put this stretch of highway forward for adoption. Further south, beyond the stretch of road to be adopted, the track would be upgraded (as part of the residential development) with a new carriageway surface and footway. Even further south, a stretch of track (approximately 30m long) exists outside the red line boundary of the residential development site. The Transport Statement submitted with the current playing fields application stated that the 30m stretch "cannot be upgraded either in width or construction as this falls outside the control of the applicant", however officers noted that the 30m stretch is within the application site red line boundary and is owned by the council, and officers queried why that stretch could not be upgraded. In response, on 13/08/2021 the applicant submitted an amended plan and confirmed that this stretch would indeed be upgraded, however the applicant's proposal to "resurface with gravel" is unlikely to be acceptable, and a more robust surface treatment is likely to be required.
- 10.82 Adequate visibility can be provided at the point where the track meets Hunsworth Lane, and the applicant's Transport Statement suggests that the proposed development would cause a net increase of between four and 14 vehicle movement during the am and pm peak periods respectively, with a "worse case" net increase of one vehicle movement per four minutes on average (which, the applicant believes, should not be noticeable on the adjacent highway). KC Highways have raised no objections in relation to trip generation and have advised that an appropriately-upgraded track would be able to accommodate the likely traffic demands of the proposed development. Therefore, subject to acceptable details of the upgrade of the 30m stretch of track being submitted, and subject to the implementation of the upgrade works to the parts of the track within the residential development application site, it is considered that adequate vehicular access would be provided for the proposed development. An appropriate pre-commencement condition and a Grampian condition (related to development of the nearby allocated site) are recommended. Should the upgrade works to the parts of the track within the residential development application site not be implemented before the expanded playing field facilities are brought into use, the applicant will need to devise and implement adequate track improvements that would sufficiently accommodate the proposed development's traffic, that would not sterilise the adjacent allocated site, and that avoids reliance on the unregistered land to the side of 612 Hunsworth Lane.
- 10.83 Of note, current application ref: 2021/92059 relates to a proposed development which would also use the existing track for access. That application is currently under consideration and will be determined in due course.
- 10.84 No public rights of way cross or meet the application site, however it appears various informal walking and dogwalking routes exist around the site and through adjacent fields. Two representations from local residents queried

whether the proposed development would restrict access to these routes. No proposals relating to public rights of way or other pedestrian routes have been submitted by the applicant. The applicant would support local improvements to east-west pedestrian movement to and from Birkenshaw (officers had queried whether permissive footpaths could be negotiated with adjacent landowners along field edges, connecting the nearby public footpath to the south and Furnace Lane to the east), but stated that provision of such improvements would be beyond the applicant's control.

- 10.85 In light of climate change, amenity, traffic and air quality considerations, measures to minimise vehicle use and to encourage the use of sustainable modes of transport in connection with the proposed development are considered essential. As noted above, given the limited public transport provision in this part of Kirklees, it is reasonable to assume that the majority of visitors to the proposed development are likely to travel by car. Furthermore, given East Bierley's other facilities and attractions, the potential for combined trips (thus reducing travel overall) is limited. A development at this site which was entirely reliant on travel by private car is unlikely to be considered sustainable. The submitted Transport Statement does not propose measures to minimise vehicle use and to encourage the use of sustainable modes of transport, however it notes local bus services (and locations of bus stops) and maps 2km walking distances and 5km cycling distances from the site. A condition is recommended, requiring the submission of a Travel Plan setting out measures related to these forms of transport. Discussion with adjacent landowners to explore the possibility of new and improved pedestrian routes from Birkenshaw (via Furnace Lane and public footpaths SPE/3/40, SPE/3/50 and SPE/168/10) would be encouraged.
- 10.86 With regard to parking, the applicant's Transport Statement refers to likely number of sport participants and visitors to the proposed clubhouse, and to ONS and other data sources, before asserting that demand for parking in connection with the proposed development would be 137 spaces (maximum). With appropriate travel planning and the provision of cycle parking facilities, it is considered that the proposed 113-space car park would adequately meet the needs of the proposed development without resulting in parking overspill onto the highway (which could conflict with residential parking, compromise visibility for driver, and obstruct the passage of two-way traffic).
- 10.87 Adequate space would be available within the car park for coaches to turn, although this may require grounds staff to assist.
- 10.88 A condition securing details of secure, covered and conveniently-located cycle parking is recommended.
- 10.89 The proposed development is not expected to generate significant volumes of waste, however provisions would nonetheless need to be made. Of note, council refuse collection vehicles are unlikely to use the site's unadopted access track (even after its upgrade) and refuse collection arrangements would need to account for this. A condition requiring details of these arrangements is recommended.

- 10.90 A condition is recommended, requiring the submission of details of means of access to the site for construction traffic. These details would need to be provided in a Construction (Environmental) Management Plan which would also address the possibility of the nearby allocated site (HS89) being developed at the same time.

Flood risk and drainage issues

- 10.91 Local Plan policies LP24, LP27 and LP28 are relevant to flood risk and drainage, as is chapter 14 of the NPPF.
- 10.92 Currently, surface water from the majority of the site discharges via existing drainage ditches to Lodge Beck, which is to the south of the site, and which flows southwestwards. The site's existing pitches are known to be poorly drained, despite attempts to improve them. Surface water runoff and foul water from the existing changing room building discharges to a Yorkshire Water public sewer approximately 75m to the west of the application site.
- 10.93 The submitted Surface Water Management Plan notes that infiltration is unlikely to be possible (as a surface water disposal method) at this site but recommends further investigation. An Outline Surface Water Drainage Strategy appended to the document does not reflect the site layout currently proposed but suggests various measures (including permeable surfaces for the car park, and lateral drains under the proposed pitches) intended to improve drainage. Annotations suggest that surface water would be discharged to an existing drainage ditch or to the public sewer.
- 10.94 The Lead Local Flood Authority (LLFA) have advised that the site is not suitable for soakaways due to the made ground beneath the site's topsoil. As mining operations are understood to have taken place at the site, there is a risk of mobilisation of pollutants within the made ground. The LLFA have therefore advised that disposal of surface water and underoil drainage from the development should be (via gravity and new headwall of a suitable design) to the small watercourse at the southeast corner of the site which drains into Lodge Beck. Permission would need to be sought from the council (as landowner) for this drainage solution, as a strip of land between the proposed development and the head of the watercourse is council-owned. The LLFA have further advised that surface water and underoil drainage flows from the access road, new car parking area, buildings and underoil drainage should be limited to a rate of 5.0 l/s per hectare and have recommended an appropriate condition requiring full details of a drainage scheme for the development.
- 10.95 Yorkshire Water records indicate that a 300mm diameter foul sewer crosses the site to the south of the existing changing room building. This sewer is for foul drainage only and should not be used for any surface water discharges.
- 10.96 Conditions requiring details of temporary (construction-phase) drainage, full details of the site's drainage scheme (including provision for climate change rainfall events) and arrangements for drainage management and maintenance are recommended.

Environmental and public health

- 10.97 In relation to air quality, a condition is recommended requiring the provision of electric vehicle charging facilities. In addition, a recommended condition secures the above-mentioned Travel Plan, including mechanisms for discouraging high emission vehicle use and encouraging modal shift (to public transport, walking and cycling) and uptake of low emission fuels and technologies.
- 10.98 The health impacts of the proposed development are a material consideration relevant to planning, and Local Plan policy LP47 is relevant. KC Public Health have raised no objection to the application and have noted that the proposed development would increase access to sport opportunities. Subject to adequate travel planning and the encouragement of the use of sustainable and active modes of transport, it is considered that the proposed development would have positive impacts on human health.

Site contamination and stability

- 10.99 The northern part of the application site is within a Development Low Risk Area as defined by the Coal Authority. The southern part is within a Development High Risk Area, having formed part of the Cross Pit site. Council records identify much of the site is identified as potentially contaminated land. The majority of the site is made ground.
- 10.100 Regarding contaminated land, the applicant has submitted a Report on a Phase One Desk Study, which KC Environmental Health have advised is satisfactory. The applicant's Report on a Geo-Environmental Investigation includes insufficient information regarding remediation, therefore a full detailed remediation strategy (including gas protection elements to be installed as necessary to protect the end-users) is required. Three contaminated land conditions are recommended accordingly.
- 10.101 Japanese Knotweed is present at the application site, and is already undergoing eradication treatment. A relevant condition is recommended.
- 10.102 Regarding site stability, the Coal Authority concurs with the recommendations of the applicant's Report on a Phase One Desk Study that coalmining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coalmining legacy issues on the site. Conditions regarding intrusive investigation, remediation and validation are recommended.

Trees, landscaping and biodiversity

- 10.103 No trees within or immediately adjacent to the application site are protected by Tree Preservation Orders. All of the application site, and much of the surrounding land, is within a Biodiversity Opportunity Zone (Pennine Foothills), and land within the site (around its edges) forms part of the Wildlife Habitat Network.
- 10.104 Works related to trees are not mentioned in the submitted Planning Statement, however it is likely that some of the trees along the site's northern edge would need to be felled to accommodate the proposed development. KC Trees have raised no objection, noting that the proposed development would not impact on any protected trees or any that meet the criteria for a new Tree Preservation

Order to be served. KC Ecology have, however, advised that – for biodiversity reasons – no loss of woodland cover should be permitted, and that a 10% gain in woodland should be secured. These matters are considered below.

- 10.105 During the life of the application, the applicant deleted a problematic proposal to clear trees and shrubs from a 700sqm area at the south edge of the site which the applicant had proposed to change to agricultural use (pasture land), and which forms part of the Wildlife Habitat Network.
- 10.106 The applicant has submitted three versions of a Preliminary Ecological Appraisal (PEA) during the life of the application. These include the findings of surveys carried out in 2019 and 2021. Section 5.0 of the applicant's PEA states that habitats across the application site were generally considered to be of low ecological value, comprising predominantly amenity grassland, scattered trees and low-quality woodland. However, the document goes on to state:
- ...the areas of woodland are likely to provide shelter, edge habitat and nesting opportunities for local passerine species, and foraging and commuting habitat for species such as bats and hedgehog. The eastern and western woodlands and the scattered trees within the southern extent of the Site also form part of the Kirklees Habitat Network therefore, where possible, any losses should be compensated for with new planting as part of the proposed development in order to maintain the ecological value of the Site. Loss of these habitats would result in a reduction in biodiversity value, and fragmentation of habitats.*
- 10.107 A bat report has also been submitted – this found that the application site provided suitable habitat for foraging and commuting bats, and noted the presence of four bat species at the site.
- 10.108 The applicant's amended "Proposed New Land Allocation Plan" indicates that approximately 400sqm of "new habitat / woodland" and 560sqm of "re-planted / improved habitat" would be provided. Planting details for these areas have not been provided, and it is currently unclear how these areas would be affected by the use (and associated activity, noise and artificial light) of the proposed pitches which they would surround.
- 10.109 A net biodiversity gain needs to be demonstrated in accordance with Local Plan policy LP30 and chapter 15 of the NPPF. In accordance with the council's Biodiversity Net Gain Technical Advice Note, a net gain of at least 10% is expected. The applicant's amended Preliminary Ecological Appraisal includes a Biodiversity Net Gain calculation which suggests a 11.65% biodiversity net gain can be achieved at the application site, however this is based on recommendations set out earlier in that document rather than detailed proposals for enhancements.
- 10.110 Conditions are recommended in relation to the required biodiversity net gain and the provision and management of biodiversity enhancements to ensure that the proposed development accords with Local Plan policy LP30 and chapter 15 of the NPPF.

Representations

- 10.111 To date, a total of six representations have been received in response to the council's consultation and reconsultation. The applicant has also submitted three letters of support from representatives of interest sports organisations. The comments raised have been addressed in this report.

Other planning matters

- 10.112 It is noted that, in its other roles, the council has supported sport-related development and the work of the applicant at the application site through a leasehold asset transfer and loan (discussed at Cabinet, 24/03/2016). This, however, is not a material consideration (relevant to the current application) pertinent to the decision to be made by the council in its role as local planning authority.

11.0 CONCLUSION

- 11.1 The intention of the applicant to improve and expand outdoor sports provision at the site is appreciated and welcomed. The public benefits of the proposed development (including the potential for it to enable and increase sport participation and physical activity) have been given due consideration.
- 11.2 The NPPF 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 The proposed development has been assessed against relevant policies in the development plan and other material considerations. The proposed development does not accord with green belt policies within the development plan, however these concerns are outweighed by the very special circumstances demonstrated by the applicant.
- 11.4 Approval of planning permission is recommended.

12.0 CONDITIONS (summary list – full wording of conditions, including any amendments/ additions, to be delegated to the Head of Planning and Development)

1. Three years to commence development.
2. Development to be carried out in accordance with the approved plans and specifications.
3. Submission of a Construction (Environmental) Management Plan.
4. Submission of details of temporary drainage measures.
5. Provision of site entrance and visibility splays prior to works commencing.
6. Grampian condition requiring completion of track upgrade works (either as per application ref: 2019/93616 or an alternative approved scheme) prior to development being brought into use.
7. Submission of details of track upgrade works for the remaining 30m stretch, and implementation.
8. Cycle parking provision to be provided within the site.
9. Provision of Electric Vehicle charging points.
10. Submission, implementation and monitoring of travel plan.
11. Provision of waste storage and collection.

12. Coalmining legacy – submission of findings of intrusive investigation and remediation works.
13. Coalmining legacy – submission of a validation confirmation.
14. Submission of Remediation Strategy.
15. Implementation of Remediation Strategy.
16. Submission of Validation Report.
17. Details and validation of Japanese Knotweed eradication.
18. Submission of details of floodlighting (including measures to limit ecological and amenity impacts, and relating to low energy use).
19. Control of entertainment noise.
20. Hours of use of clubhouse.
21. Hours of use of pitches.
22. Submission of details of artificial and hybrid pitches.
23. Submission of details of ground conditions that may adversely affect use of pitches, and measures to address these constraints.
24. Submission of full drainage strategy.
25. Submission of details of management and maintenance of surface water drainage infrastructure.
26. Submission of details of crime prevention measures.
27. Submission of details of external materials.
28. Painting of goal storage containers to match fencing.
29. Submission of details of boundary treatments (including details of gabion walls).
30. Submission of full landscaping details.
31. Submission of details of biodiversity enhancement and net gain.
32. Submission and implementation of an Ecological Design Strategy.

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f90357>

Certificate of Ownership – Certificate B signed

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Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 18-Nov-2021

Subject: Planning Application 2021/91758 Formation of 6 space car park Trabel House, 26-28, Cambridge Road, Huddersfield, HD1 5BU

APPLICANT

Richard Johnston, Wates
Construction

DATE VALID

15-Jun-2021

TARGET DATE

10-Aug-2021

EXTENSION EXPIRY DATE

07-Sep-2021

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: Newsome Ward

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development to complete the list of conditions including those contained within this report.

1.0 INTRODUCTION:

- 1.1 This application seeks full planning permission for the formation of a 6-space car park.
- 1.2 The application is brought to the Strategic Planning Committee for determination under the terms of the Delegation Agreement because the proposal is a departure from the Development Plan.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site comprises a rectangular piece of land to the west of Trabel House Care Home. It forms part of the larger Brambles Primary School development (see Section 4 below regarding planning history). The site previously appeared to accommodate several trees. However, as part of the primary school scheme, it has been approved as a grassed area serving the School, north of the approved access track into the school. Consequently, the trees have been removed. When officers visited the site earlier this year, the site comprised of soil. It slopes downwards from west to east.
- 2.2 Trabel House to the west of the site is noted as being a care home for people with learning disabilities and associated challenging behaviours. There is a parking area to the rear of the care home, which is accessed via a track to the rear of No's. 22, 24, 24a and 24b Cambridge Road.
- 2.3 The site is accessed off Cambridge Road to the east, via an un-adopted part of this highway. It is then accessed off a track, which has been approved to serve the Brambles Primary School development (but which has yet to be completed, although work has begun on this). The creation of this access track into the school is noted to have displaced cars that previously parked at the western end of Cambridge Road.
- 2.4 The site is designated as Urban Green Space within the Kirklees Local Plan. It is not within a Conservation Area, but it is to the north of the Greenhead Park/New North Road Conservation Area. The site is located to the northeast of the Grade II listed No.1 Belmont Street and northwest of the Grade II listed 27 and 29 Elmwood Avenue. It is also within a development high risk coal mining area. Public Right of Way HUD/343/60 runs through the southern part of the site.

3.0 PROPOSAL:

- 3.1 Planning permission is sought for the formation of a 6-space car park at the site, which is proposed to serve Trabel House Care Home to the west. The access to the parking area would be achieved via the access track that will serve the Brambles Primary School. The 6 parking bays would be perpendicular to each other, with space for turning. The parking area is proposed to be constructed from tarmac. The car parking area would be slightly sunk into the ground with land being re-graded to achieve this.

3.2 As part of the Brambles Primary School development, the matter of the Public Right of Way HUD/343/60 was addressed, and it is proposed to run south of the access track to the school off Cambridge Road.

4.0 RELEVANT PLANNING HISTORY:

4.1 The following planning history is considered relevant to the assessment of this planning application:

- 91/04151 – Conversion of flats into hostel for homeless – Approved on 01/10/1991.
- 92/05083 – Re-use of existing garage and new extension to form dwelling – Approved on 29/07/1994.
- 93/00117 – Continuation of the use of the building as hostel for the homeless – Approved on 23/04/1993.
- 95/92775 – Change of use of hostel/flats to residential home for the elderly – Approved on 26/09/1995.
- 2002/91848 – Conversion and extension of outbuilding to form dwelling – Approved on 18/08/2003.
- 2007/92455 – Erection of ground floor extension, removal of garage, formation of garden and car parking – Approved on 19/09/2007.
- 2008/90112 – Erection of bathroom extension and sun lounge – Approved on 14/01/2008.
- 2014/92822 – Certificate of lawfulness for proposed alterations to create independent living accommodation – Certificate of Lawfulness Granted on 14/11/2014.
- 2016/94285 – Outline application for erection of primary school building and reconfiguration of existing playing pitches – Approved on 21/11/2017.
- 2018/93113 – Discharge condition 18 (phase II) on previous permission 2016/94285 for outline application for erection of primary school building and reconfiguration of existing playing pitches – Approved on 27/12/2017
- 2018/91100 – Variation of condition 5. (site layout) on previous permission no. 2016/94285 for outline application for erection of primary school building and reconfiguration of existing playing pitches – Approved on 17/9/2018
- 2018/91211 – Reserved matters application pursuant to previous permission (no. 2018/91100) for variation of condition no. 5 site layout pursuant to previous permission no. 2016/94285 for outline application for erection of primary school building and reconfiguration of existing playing pitches – Approved on 12/11/2018.
- 2020/93038 – Discharge of conditions 8, 16, 19, 24 and 25 on previous application 2018/91100 for Variation of condition 5. (site layout) on previous permission no. 2016/94285 for outline application for erection of primary school building and reconfiguration of existing playing pitches – Approved on 26/10/2020.
- 2020/93413 – Discharge of condition 26 (allotments) of previous permission 2018/91100 for variation of condition 5 (site layout) of previous permission 2016/94285 for outline application for erection of primary school building and reconfiguration of existing playing pitches – Approved on 1/12/2020
- 2020/93569 – Discharge of conditions 6 and 7 (highways) of previous permission 2018/91100 for variation condition 5 (site layout) on previous permission 2016/94285 for outline application for erection of primary school building and reconfiguration of existing playing pitches – Pending consideration.

- 2020/93737 – Discharge of conditions 11 (playing field) and 15 (noise) of previous permission 2018/91100 for variation condition 5 (site layout) of previous permission 2016/94285 for outline application for erection of primary school building and reconfiguration of existing playing pitches – Refused on 02/08/2021
- 2020/93947 – Discharge condition 3 (management plan) on previous permission 2018/91211 for reserved matters application pursuant to previous permission (no. 2018/91100) for variation of condition no. 5 site layout pursuant to previous permission no. 2016/94285 for outline application for erection of primary school building and reconfiguration of existing playing pitches – Approved on 13/07/2021.
- 2020/94022 – Discharge of condition 17 (ventilation odour/acoustic assessment) of previous permission 2018/91100 for variation condition 5 (site layout) of previous permission 2016/94285 for outline application for erection of primary school building and reconfiguration of existing playing pitches – Approved on 02/08/2021
- 2020/94044 – Discharge condition 13 on previous permission 2018/91100 for variation condition 5 (site layout) on previous permission 2016/94285 for outline application for erection of primary school building and reconfiguration of existing playing pitches – Pending consideration.
- 2021/90846 – Discharge of condition 24 (surface water drainage disposal) and 25 (drainage scheme) on previous permission 2018/91100 for variation of condition 5 (site layout) on previous permission no. 2016/94285 for outline application for erection of primary school building and reconfiguration of existing playing pitches – Approved on 13/7/2021.
- 2021/92482 – Discharge of condition 14 (lighting strategy) of previous permission 2018/91100 for variation of condition 5 (site layout) of previous permission 2016/94285 for outline application for erection of primary school building and reconfiguration of existing playing pitches – Pending consideration
- 2021/93039 – Discharge of condition 9 (travel plan) of previous permission 2018/91100 variation condition 5 (site layout) of previous outline permission 2016/94285 for erection of primary school building and reconfiguration of existing playing pitches – Pending consideration.
- 2021/91986 – Non material amendment to previous permission 2018/91100 for variation condition 5 (site layout) on previous permission 2016/94285 for outline application for erection of primary school building and reconfiguration of existing playing pitches – NMA approved on 08/06/2021.
- 2021/92211 - Non material amendment to previous permission 2018/91211 for reserved matters application pursuant to previous permission 2018/91100 for variation condition 5 (site layout) pursuant to previous permission 2016/94285 for outline application for erection of primary school building and reconfiguration of existing playing pitches – Refused on 28/6/2021
- 2021/92769 – Non material amendment to previous permission (2018/91211) for reserved matters application pursuant to previous permission (no. 2018/91100) for variation of condition no. 5 site layout pursuant to previous permission no. 2016/94285 for outline application for erection of primary school building and reconfiguration of existing playing pitches – Approved 09/07/2021.

4.2 As displayed above, the site and care home both have an extensive planning history. The site itself forms part of the larger primary school site, which is currently being developed, and was originally approved in November 2017 (outline permission 2016/94285). This permission was varied under application 2018/91100, which was approved in September 2018. The reserved matters application for the primary school (2018/91211) was approved in November

2018, located within the proposed grounds of a school which is currently in the process of being developed. Under these applications, an access is approved from the edge of Cambridge Road to the primary school, and the proposed car park under this application would be accessed from this access road. It is noted that the development of this access road to the school has displaced parking towards the end of Cambridge Road.

- 4.3 Under the reserved matters application 2018/91211 noted above, the area where the car park is proposed was approved as a grassed area, with trees adjacent to the access road (as displayed in figure 1 below).

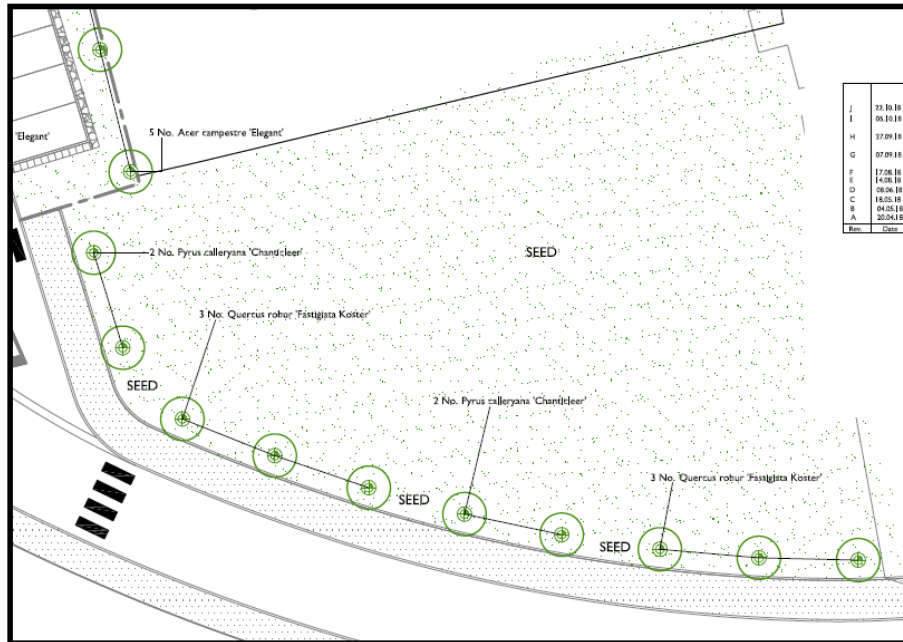


Figure 1 – Landscape plan approved under application ref 2018/91211

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 The Coal Authority initially requested a desk-based assessment or statement prepared by the applicant’s technical consultants to support the application to demonstrate to the Local Planning Authority (LPA) that the risk of probable shallow coal mine workings had been considered in the context of this development.
- 5.2 Following this, the applicant’s agent outlined that a Coal Authority Report was prepared for the Brambles Primary School application (the application site forms a relatively smaller part of this wider approved development site). In addition to this, the applicant’s agent provided a Phase 1 desk study, which discusses mining (supplemented by a Coal Risk Assessment and a Coal Authority Report). In response, The Coal Authority were satisfied with the findings of this submitted information subject to a condition.
- 5.3 It was not considered necessary to re-consult upon the receipt of this aforementioned additional information as this does not alter the layout of the proposal and this information was submitted as part of the larger primary school development. Thus, it is considered that no third party would be prejudiced in this instance.

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 statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

6.2 The site is designated as Urban Green Space on the Kirklees Local Plan Proposals Map.

6.3 Kirklees Local Plan (2019):

- **LP 1** – Achieving Sustainable Development
- **LP 2** – Place Shaping
- **LP 4** – Providing Infrastructure
- **LP 21** – Highways and Access
- **LP 22** – Parking
- **LP 24** – Design
- **LP 27** – Drainage
- **LP 33** – Trees
- **LP 35** – Historic Environment
- **LP 47** – Healthy, Active and Safe Lifestyles
- **LP 48** – Community Facilities
- **LP 50** – Sport and Physical Activity
- **LP 51** – Protection and Improvement of Local Air Quality
- **LP 52** – Protection and Improvement of Environmental Quality
- **LP 53** – Contaminated and Unstable Land
- **LP 61** – Urban Green Space

6.4 National Policies and Guidance:

6.5 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th July 2021, the Planning Practice Guidance Suite (PPGS) first 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.

- **Chapter 2** – Achieving Sustainable Development
- **Chapter 4** – Decision-Making
- **Chapter 8** – Promoting Health and Safe Communities
- **Chapter 9** – Promoting Sustainable Transport
- **Chapter 11** – Making Efficient Use of Land
- **Chapter 12** – Achieving Well-Designed Places
- **Chapter 14** – Meeting the Challenge of Climate Change, Coastal Change and Flooding
- **Chapter 15** – Conserving and Enhancing the Natural Environment
- **Chapter 16** – Conserving and Enhancing the Historic Environment

6.6 Supplementary Planning Guidance Documents

- Kirklees Highways Design Guide (2019)

7.0 PUBLIC/LOCAL RESPONSE:

7.1 Neighbour letters expired on 2nd August 2021; Press Advert expired on 22nd July 2021; Site Notice expired on 19th August 2021.

7.2 1 letter of representation has been received, which raises general comments. The comments are summarised below (full comments are available to view on the Council's Planning Webpage):

- Car park could help prevent the use of the back service lane for transporting residents in and out of Trabel House, and cars driving down this back lane at some speed;
- Car park could help prevent vehicles reversing in the parking yards of neighbouring properties.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

- Sport England – No objections.
- The Coal Authority – In light of further information received, the Coal Authority has no objections.

8.2 Non Statutory:

- KC Ecology – No comments received.
- KC Highways Development Management – No objections subject to a compliance condition relating to surfacing and drainage of parking area
- KC Policy – When assessed against the criteria in Policy LP61, the land is not identified as surplus to requirements in the KOSS (2016), nor is the proposal providing replacement green space for an alternative use. Consideration will also need to be given to any possible effect or loss the car park may have on the adjacent playing pitches.
- KC Public Rights of Way – No comments received.
- KC Trees – No objections.

8.3 The above is a summary of the responses provided from consultees, with full comments being able to view on the Council's Planning Webpage.

9.0 MAIN ISSUES:

- Principle of the development
- Visual amenity
- Impact upon historic environment
- Residential amenity
- Highways safety
- Other matters
- Planning balance
- Representations

10.0 APPRAISAL:

Principle of the development

Sustainable Development

- 10.1 NPPF Paragraph 11 and LP1 outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation.
- 10.2 The dimensions of sustainable development will be considered throughout the proposal.
- 10.3 Paragraph 11 also concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted.

Principle of Development in Urban Green Space

- 10.4 The site is designated as Urban Green Space in the Kirklees Local Plan.
- 10.5 Paragraph 99 of the NPPF states that existing open space should not be built on unless there are exceptional circumstances outlined within the NPPF.
- 10.6 Policy LP61 of the Kirklees Local Plan, which specifically relates to Urban Green Space, states that:

“Development proposals which would result in the loss of urban green space (as identified on the Policies Map) will only be permitted where:

- a. an assessment shows the open space is clearly no longer required to meet local needs for open space, sport or recreational facilities and does not make an important contribution in terms of visual amenity, landscape or biodiversity value; or*
- b. replacement open space, sport or recreation facilities which are equivalent or better in size and quality are provided elsewhere within an easily accessible location for existing and potential new users; or*
- c. the proposal is for an alternative open space, sport or recreation use that is needed to help address identified deficiencies and clearly outweighs the loss of the existing green space.*

The protection set out in this policy also applies to smaller valuable green spaces not identified on the Policies Map.”

- 10.7 The text supporting this policy outlines that: *“Green spaces close to where people live provide opportunities for sport, recreation and play providing enjoyment, encouraging healthy lifestyles and benefiting mental well-being. They are also an essential component of the quality and local character of areas, providing visual amenity and wildlife value.”*

- 10.8 The text goes on to note that in order to safeguard Urban Green Space and prevent deficiencies in provision, it is important that existing areas of valuable green space are retained and protected from development.
- 10.9 The Urban Green Space that the site is located within is categorised as allotments/community food growing in the Kirklees Open Space Study (2016), being identified as part of a community orchard area, and assessed as having medium value as open space. However, it is pertinent to note that this Open Space Study pre-dates the approval of the Brambles Primary School development.
- 10.10 There are no allotments on the application site, and it does not appear that the site itself previously accommodated allotments. In addition to this, whilst trees previously formed part of the site, these have since been removed as a consequence of the Brambles Primary School development, and the land currently comprises of soil as part of this development. Under this primary school development, this area of land is proposed to be a grassed area, with some trees planted along the access road. As a result, Officers consider that application site no longer meets local needs for open space. Officers consider that the removal of the trees to make way for the grassed area has reduced the visual amenity value of the site, but nonetheless, it is considered that this soft landscaped would make a positive contribution to the visual amenity of the area.
- 10.11 As this site is not used for sports or recreation, the proposal would not result in the loss of land for such activities, and there is considered to be no conflict with Policy LP50 of the Kirklees Local Plan. Of note, Sport England has raised no objections to the proposal, outlining that the development affects only land incapable of forming part of a playing pitch and does not:
- reduce the size of any playing pitch;
 - result in the inability to use any playing pitch (including the maintenance of adequate safety margins and run-off areas);
 - reduce the sporting capacity of the playing field to accommodate playing pitches or the capability to rotate or reposition playing pitches to maintain their quality;
 - result in the loss of other sporting provision or ancillary facilities on the site; or
 - prejudice the use of any remaining areas of playing field on the site.
- 10.12 Thus, given the above, having regard to Policy LP61, Officers consider that the Urban Green Space of which this site forms a part, only makes a positive contribution in terms of visual amenity.
- 10.13 The proposal would urbanise this Urban Green Space by virtue of the hard surfacing to form the car park. In addition, the land on which the site is located within is not identified as being surplus to requirements in the Kirklees Open Space Study (2016) nor is the proposal providing replacement green space or for an alternative open space. Thus, there is considered to be conflict with Policy LP61 of the Kirklees Local Plan.
- 10.14 That said, Officers hold the view that the harm caused by such a policy conflict is reduced as the contribution this site makes to visual amenity has been reduced since the time of the Kirklees Open Space Study (2016), given that the trees on the site have been cleared and this is now to form a grassed area next to the school access track. The harm to the visual amenity is further reduced by the fact that the car park is relatively modest in scale and would be sunk into the ground so as not to appear highly prominent.

10.15 Despite these points about reduced harm, Officers still consider there to be conflict with Policy LP61 of the Kirklees Local Plan. Planning law requires that applications be determined in accordance with the development plan, unless material considerations indicate otherwise, and such material considerations will be discussed and weighed against the harm below in the 'planning balance' subsection of this report below.

Visual amenity

10.16 Section 12 of the NPPF discusses good design. Good design is a key aspect of sustainable development, it creates better places in which to live and work and helps to make development acceptable to communities. Local Plan Policies LP1, LP2 and most importantly LP24, are all also relevant. All these policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development in the local area and is visually attractive.

10.17 Local Plan Policy LP24(a) states that all proposals should promote good design by ensuring the following: *'the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape'*.

10.18 As discussed in the above subsection, Officers consider that the Urban Green Space that the site forms part of makes a positive contribution in terms of visual amenity. As the proposal would urbanise this Urban Green Space by virtue of the hard surfacing to form the car park, Officers consider there would be some harm to the visual amenities of the locality, and therefore conflict with Policy LP24 of the Kirklees Local Plan. However, Officers hold the view that the harm caused by such a policy conflict is reduced for the same reasons set out at Paragraph 10.14 above.

Impact upon historic environment

10.19 The site is not within a Conservation Area but it is to the north of Greenhead Park/New North Road Conservation Area. The site is located to the north east of the Grade II listed No.1 Belmont Street and north west of the Grade II listed 27 and 29 Elmwood Avenue.

10.20 Section 66 of the Planning (Listed Buildings & Conservations Areas) Act (1990) states that 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.

10.21 Section 72 of the above act similarly requires that LPA's pay special attention to the desirability of preserving or enhancing the character or appearance of any conservation area where relevant.

10.22 Sections 66 and 72 of the Planning (Listed Building & Conservation Areas) Act (1990) are mirrored in Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

10.23 Furthermore, LP35 states that: *“development proposals affecting a designated heritage asset...should preserve or enhance the significance of the asset. In cases likely to result in substantial harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring substantial public benefits that clearly outweigh the harm.”*

10.24 The proposed car park would be approximately 35 metres to the north of the Greenhead Park/New North Road Conservation Area and over 80 metres from the nearest listed building (No.1 Belmont Street). It would also be sited to the north of the approved access track to the Brambles Primary School, and it would be modest in scale and sensitively sunk into the ground to reduce its visibility. For these reasons, it is considered that the proposal would not cause harm to the significance of these designated heritage assets, or their setting. The proposal is therefore considered to be in accordance with Policy LP35 of the Kirklees Local Plan and Chapter 16 of the NPPF.

Residential amenity

10.25 Section B and C of Policy LP24 states that alterations to existing buildings should:

“...maintain appropriate distances between buildings’ and ‘...minimise impact on residential amenity of future and neighbouring occupiers.”

10.26 In addition, Policy LP52 of the Kirklees Local Plan outlines that permission will not be granted for development that causes unacceptable levels of pollution from noise.

10.27 Further to this, Paragraph 130 of the NPPF states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

10.28 Given the scale and form of the car park, it is considered that the proposal would not cause harm to neighbouring residential properties in terms of loss of light, loss or privacy or overlooking, or the creation of an overbearing effect.

10.29 The car park would be sited to the west side of the existing care home site, and would be accessed from Cambridge Road via the access track to the Brambles Primary School, rather than on the lane to the rear of the residential properties to the east of the care home, thereby helping to prevent additional harm to the amenities of these neighbouring properties in terms of noise nuisance. In addition to this, given the relatively modest scale of the car park (6 spaces), Officers do not consider the proposal would result in a materially greater number of vehicles using Cambridge Road and the access track to the Brambles Primary School. Officers therefore hold the view that the proposal would prevent undue harm to neighbouring residential properties in terms of noise nuisance.

10.30 Thus, in respect of residential amenity, Officers consider that the proposal would be in accordance with Policies LP24(b) and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the NPPF.

Highways safety

- 10.31 Kirklees Highways Development Management (HDM) have outlined that they are satisfied with the dimensions of the parking bays provided, and the gap to the rear of the bays to allow for turning. Kirklees HDM have also outlined that given the width of the footway, they consider visibility in both directions to be acceptable. Officers concur with Kirklees HDM in relation to these points.
- 10.32 Kirklees HDM have outlined that they have no objections to the proposal subject to a compliance condition stating that the proposal shall be in accordance with the drainage details provided prior to the first use of the car park, and this can be conditioned should permission be granted. The drainage details submitted alongside this application are considered to be consistent with those approved under the application for the primary school development.
- 10.33 Given the above, it is considered that the proposal would prevent detrimental harm to highways safety in accordance with Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF.

Other matters

Trees:

- 10.34 As noted above, most of the trees which previously stood at the site have been removed to make way for the Brambles Primary School development. The Kirklees Tree Officer has considered that there is no further harm to adjacent trees that can be caused by the proposed development, given the works approved for the primary school development. The Kirklees Tree Officer therefore raises no objections to the proposal, and it is considered that the proposal would not cause adverse harm to trees of amenity value.

Ecology:

- 10.35 The site currently comprises soil due to the development of the site for the Brambles Primary School, and is considered to be of low ecological potential. The site is also proposed to mainly consist of grass as a result of the School scheme. As a result, it is considered that the proposed development is unlikely to cause harm to protected species or undermine the methods of enhancing biodiversity under the Bramble Primary School permission.

Contamination:

- 10.36 The Phase II report submitted alongside the applications for the development of the Brambles Primary School identified the presence of contaminants on parts of the larger site, but do not appear to include the site under this current application. Given this and that the proposal is for a car park, Officers consider a compliance condition in relation to unexpected contamination will be sufficient to deal with such risks.

Coal Mining Risk:

- 10.37 The site is identified as being within a high risk development coal mining area. The applicant's agent has provided the Phase 1 desk study submitted alongside the application for the Brambles Primary School development, which discusses

mining (supplemented by a Coal Risk Assessment and a Coal Authority Report). The documentation identified that shallow coal mine workings have taken place within the application site. As a result, recommendations were made that further site investigations are required in the form of rotary boreholes across the site in order to conclusively determine the exact situation regarding ground conditions beneath the site. The findings of the site investigations will enable appropriate remedial/mitigate measures required to ensure development will be safe and stable.

- 10.38 In response, The Coal Authority are satisfied with the findings of this submitted information and have stated that to ensure that appropriate remedial / mitigation measures are identified, to demonstrate to the LPA that the proposal will be safe and stable, they have no objection to the proposed development, subject to pre-commencement planning conditions.

Climate Change:

- 10.39 On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target. However, it includes a series of policies, which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

- 10.40 Given the above, and in accordance with the West Yorkshire Low Emissions Strategy, it is considered that 10% of the parking spaces proposed (this being 1 space) should provide electric vehicle charging points. This matter can be conditioned should permission be granted.

Planning balance

- 10.41 Paragraph 12 of the NPPF states that where a planning application conflicts within an up-to-date development plan, permission should not be granted. Paragraph 12 goes on to note that local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed. This is consistent with Section 38(6) of the Planning and Compulsory Purchase Act 2004.

- 10.42 In this case, and as discussed above, Officers consider the proposal conflicts with Policy LP61 of the Kirklees Local Plan by virtue of the proposal being for a car park within a designated Urban Green Space, and not satisfying any of the criteria within Policy LP61 for development in such a designation. In addition, Officers consider there to be conflict with Policy LP24 of the Kirklees Local Plan given that the proposal would urbanise this designated Urban Green Space which is considered to make a positive contribution in terms of visual amenity.

- 10.43 The above said, Officers hold the view that the harm caused by such a policy conflict is reduced as the contribution this site makes to visual amenity is lessened since the time of the Kirklees Open Space Study (2016). The trees once on the site have been cleared and this is now to form a grassed area next to the school access track. In addition, Officers consider that the harm to the visual amenity is further reduced by modest scale of the car park and the fact that it would be sunk into the ground so as not to appear highly prominent.
- 10.44 In terms of other material considerations, it is noted that vehicles previously parked at the end of Cambridge Road, where the access track to Brambles Primary School is now approved to run from. The approval of the primary school has therefore appeared to displace the cars that previously parked here. Officers consider this displacement has the potential to result in unsafe on-street parking around the vicinity of the site, which would increase the likelihood of conflict with highways users (both vehicle users and pedestrians). Of note, Cambridge Road would consist of part of the access to the school for vehicles and pedestrians. Therefore, it is considered that such displacement has the potential to result in conflict with school users. Officers consider that the proposed car park would help reduce on-street parking and therefore the risk of conflict between highway users. Officers consider that this weighs in favour of the proposal.
- 10.45 Policy LP48 of the Kirklees Local Plan outlines that support will be given to proposals that protect, retain or enhance the accessibility of existing community facilities. Trabel House, which is a care home, is served by relatively limited parking to the rear of the site. Officers hold the view that the care home is a community facility, and consider that the proposed car park would help enhance the accessibility of this facility by providing further specific parking spaces for staff, service vehicles and visitors. Officers are of the opinion that this also weights in favour of the proposal.
- 10.46 Further to this, the parking which exists on the site (to the rear of the care home), is accessed via a track which runs to the rear of No's. 22, 24, 24a and 24b Cambridge Road. One letter of representation has alluded to safety concerns with the use of the access track to this rear car park and the impact the use of the rear track has upon neighbouring properties. Officers hold the view that the use of track to the rear of the site has the potential to cause noise disturbance to these aforementioned residential properties. Officers are also of the view that this track is relatively narrow and there is limited room on the site for turning and manoeuvring. The proposed car park would be easier to access than the existing one, given the width of Cambridge Road, and as noted above, there would be sufficient space on site to turn on site and leave in a forward gear. As a result, Officers consider that certain users of the care home would opt for the proposed car park, rather than the existing one. This would have the potential to enhance the living environment of neighbouring residential properties and reduce the risk of conflict between highway users. This is further considered to weigh in favour of the proposed development.

10.47 In conclusion, Officers consider that whilst there would be conflict with Policies LP24 and LP61 of the Kirklees Local Plan, which weighs against the proposal, the environmental harm caused by such conflict would be reduced for the reasons set out above. Further to this, Officers consider that the proposal would bring public benefits. It would enhance accessibility to a community facility, reduce risks to highways safety and potentially improve the living environment of neighbouring properties. In this instance, these identified social and environmental benefits of the development would outweigh the harm by virtue of the policy conflict.

Representations

10.48 1 representation has been received raising general comments with the proposed development. The comments raised in this representation have been addressed in the planning balance subsection of this committee report.

11.0 CONCLUSION

11.1 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.

11.2 This application has been assessed against relevant policies in the development plan and other material considerations. For the reasons set out in the report, 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 Planning and Development)

1. Development shall be begun within three years of the date of the permission.
2. Development to be in complete accordance with plans and specifications.
3. No development until submission of a scheme of intrusive investigations to establish the risks posed to the development by past coal mining activity, and remediation works are implemented to address land instability.
4. Submission of a signed statement confirming the site is safe and stable for the approved development prior to the first use of the site.
5. The car park is to be surfaced and drained in accordance with the drainage strategy plan provided.
6. The provision of 1 electric vehicle charging space.
7. Work to stop and surveys to be submitted if unsuspected contamination encountered.

Background Papers:

Application and history files

Available at:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2F91758>

Certificate of Ownership

Notice served on site owners - Certificate B signed

Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 18-Nov-2021

Subject: Planning Application 2021/92478 Erection of perimeter fencing Royds Hall Community School, Luck Lane, Paddock, Huddersfield, HD3 4HA

APPLICANT

Joe Tingle, Kirklees
Schools Services Ltd

DATE VALID

22-Jul-2021

TARGET DATE

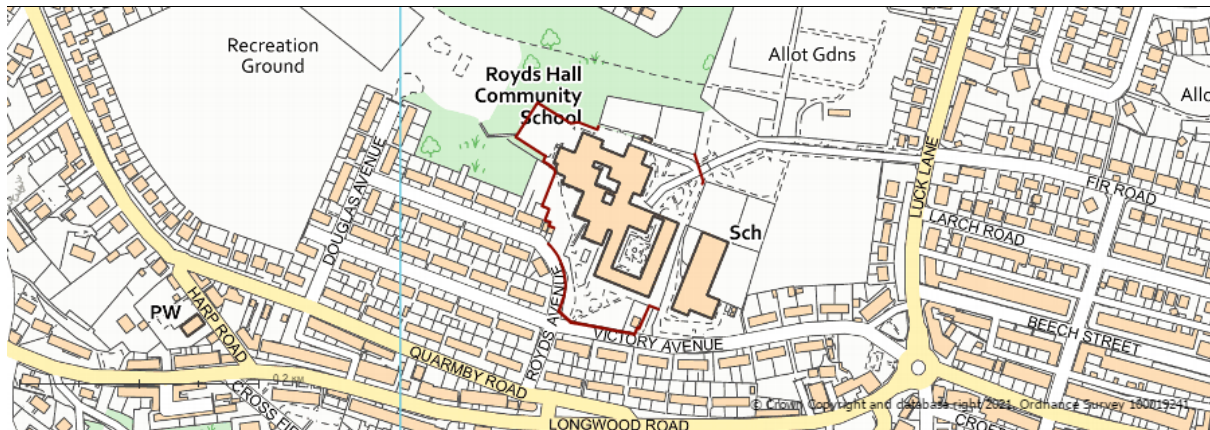
16-Sep-2021

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 only

Electoral wards affected: Golcar

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

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

1.0 INTRODUCTION:

- 1.1 Full planning permission is sought for the erection of perimeter fencing to Royds Hall Community School, Luck Lane, Paddock, Huddersfield, HD3 4HA.
- 1.2 The application is brought to this Strategic Planning Committee for determination at the request of Officers following a received petition of 100 signees. The application site is situated on Urban Green Space under LP61 (Urban green space): Local Plan reference UG117 and is on a site of over 0.5ha.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application relates to Royds Hall Community School, which is set within the former villa known as Royds Hall, a Grade II listed building dating from the mid-19th century. The building is set in large grounds, set well back from the roads, with the grounds being associated with the school. The villa was extended during the early part of the 20th century and is now surrounded by the more modern buildings, which vary in design and form.
- 2.2 The site is set within an educational setting, with the school and its grounds also being allocated as Urban Green Space on the Kirklees Local Plan.
- 2.3 There is a large lawned playing field to the far east, one car park serving the school to the east and northeast, a tarmacked tennis/other sports courts north of the campus and a small car park serving the school (northwest). The tarmacked tennis court/playing field is fenced off with green mesh fencing. Pedestrian access can be taken from various points surrounding the site however, vehicular access is taken from the south (Victory Avenue) and from the east (Luck Lane).
- 2.4 Several Tree Preservation Orders (TPOs), both for individual trees and group of trees exist, which are within the campus. Most group TPOs are bordering the school grounds, in particular to the north, south and northeast.
- 2.5 Part of the site boundary is adjacent to a Historic Landfill site and within a buffer zone to the west of the site.
- 2.6 To the far east of its border, there is a Listed Building at 132 Luck Lane, which is a mid c19 former lodge.
- 2.7 It is set within designated Urban Green Space (UGS) which includes Middle Wood (north and northwest of the campus), Douglas Avenue Recreation Ground (west) and Luck Lane Allotments (northeast) in its immediate setting. The lawned playing fields to the east of the campus are UGS and used for educational purposes.

- 2.8 Outside of its border is a claimed Public Right of Way (HUD/dmno app44/10) to the north, which runs outside the School grounds in Middle Wood and partially in the Luck Lane Allotment Gardens. There is an adopted PROW footpath (HUD/39/10) between Victory Avenue and Longwood Road to the southeast. There is an un-adopted footpath from the access road off Luck Lane which provides access to the UGS to the north of the road.
- 2.9 Adjacent to Royds Hall Community School and to the southeast of its campus grounds, is Luck Lane Primary School which is fenced off using green mesh fencing. Otherwise excluding the Urban Green Space grounds, the area is mainly residential bordering the campus (west, south and east).

3.0 PROPOSAL:

- 3.1 The proposal seeks full planning permission for the erection of a perimeter fence, to improve safeguarding for its pupils during the school day, to increase security against unauthorised peoples to the school and minimise a risk of vandalism and damage to school property after school hours. Currently, the existing fencing can be climbed over easily.
- 3.2 The proposed perimeter fence would be 2.4m in height from ground level. It would comprise metal weldmesh Eclipse-60 panel system fencing around the perimeter of the school in sections and be dark green in colour. It would not encompass Luck Lane Primary School's grounds. It would have several access gates for both pedestrians and vehicular access. The fence style would match existing fencing found elsewhere within school grounds, including to the tennis courts.
- 3.3 The proposed fence would be in two sections:
- A 23.6m span (approximate) fence section with gates between the tennis court and the existing green fencing situated between the boundary of Royds Hall Community School and Luck Lane Primary School (northeast);
A 380m span (approximate) fence along the campus south border by Victory Avenue and continuing along Royds Avenue (southwest) to the west border of the campus grounds to include the northwest car park to fully enclose by joining the existing tennis courts green fencing. This would have gated access at points to serve pedestrians.
- 3.4 The proposed fence sections would not be abutting any PROWs. However, they would be adjacent to TPOs.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 There have been numerous applications on site for extensions, new buildings, upgrading sports facilities/playing fields. The most relevant to this application are as follows:
- 2015/90565 – Listed Building Consent for relocation of a gate pier and wall. Granted.
 - 2015/90564 – Erection of new primary school building, improvements to access and upgrading of sports pitches. Approved
 - 96/93089 – Upgrading of External Sports Facilities including Rugby, Football, Hockey, Cricket, Running Track And Mountain Bike Track, Erection of Additional Changing Rooms, Meeting Room and Toilets, New Entrance, Landscaping, Car Parking and Security Fencing (Listed Building). Approved.

4.2 Green security fencing was given permission within 96/93089 and later for 2015/90564.

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

5.1 No amendments have been sought during the life of the application.

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 statutory Development Plan for Kirklees is the Local Plan (adopted 27/02/2019).

6.2 The site is situated on Urban Green Space on the Kirklees Local Plan. Kirklees Local Plan (2019):

6.3 The most relevant policies are:

- LP1 – Presumption in favour of sustainable development
- LP2 – Place shaping
- LP3 – Location of new development
- LP21 – Highways and access
- LP22 – Parking
- LP24 – Design
- LP33 – Trees
- LP35 – Historic environment
- LP47 – Healthy, active and safe lifestyles
- LP49 – Educational and health care needs
- LP50 – Sport and physical activity
- LP53 – Contaminated and unstable land
- LP61 – Urban Green Space

National Planning Guidance:

6.4 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF), published 20/07/2021, the National Design Guide published 01/10/2019 and the Planning Practice Guidance Suite (PPGS), first launched 06/03/2014, together with Circulars, Ministerial Statements and associated technical guidance.

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

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 8 – Promoting healthy and safe communities
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal changes
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

Other Guidance

6.6 National Design Guide (2019)

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been advertised by site notice, neighbour notification letters and the press. The consultation period ended on 27/08/2021 for neighbour letters and 03/09/2021 for Press.

7.2 As a result of the above publicity, one representation and one petition with 100 signees have been received at the time of writing the report by 06/10/2021.

7.3 The comments received are as summarised:

- 4 meter plus high fence would visually appear as a prison style enclosure fence.
- Trees would be damaged and hindered in growth as a result and they are protected under a TPO.
- Local access to the forest would be restricted.
- Heritage and government guidelines ensure all Grade II Listed Buildings keep all walls, boundaries, and grounds consistent with the original design and appropriate materials.

7.4 It is noted that the height of the fence would be 2.4m in height not 4m plus in height.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

None

8.2 Non-statutory:

KC Conservation & Design: Royds Hall School has been extended over the years, with different phases of construction from the original building in the centre of the site to more recent extensions. The Grade II Listed Building former Lodge at Luck Lane is not affected by the proposal. Weldmesh fencing is a modern boundary treatment which will enclose an existing open space and cause slight harm to the significance of the early 20th century elements of the listed building. However, this approach is reversible if necessary and the public benefits of providing a safe environment for the children outweighs this slight harm and therefore the Conservation and Design Team have no objections to this proposal.

KC Crime Prevention: No objections, would assist in enhancing site security.

KC Environmental Health: No Objections. Conditions to be applied on reporting of unexpected contamination to the Local Planning Authority.

KC Trees: A Method Statement was submitted and the proposal would be supported, considering that Trees would be protected from harm during construction if followed. Should consent be granted, a condition should be attached to follow the statement to avoid harm.

9.0 MAIN ISSUES

- Principle of development
- Urban Green Space
- Education
- Design
- Historic Environment
- Trees
- Residential amenity
- Environmental Health
- Highway issues
- Other matters
- Representations
- Planning Obligations

10.0 APPRAISAL

Principle of development

- 10.1 Planning law requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise.

Urban Green Space

- 10.2 The site is designated as Urban Green Space (UGS) in the Kirklees Local Plan and therefore, Policy LP61 (Urban green space) is relevant. The proposal seeks to erect a perimeter fence of 2.4m height within the school grounds where pre-existing fences of restricted heights of 0.5-1m exist without gates, specifically adjacent to car-parks, buildings, existing fences and grounds not designated for sports and/or recreation. It should be considered whether this would lead to a loss of urban green space or whether it would have a material impact on the safety and security of the UGS in use should consent be refused.
- 10.3 The area of the UGS is designated for educational uses providing Royds Hall Community School with schools grounds, playing fields and car park. The erection of a perimeter fence would replace low fencing along Victory Avenue and Royds Avenue (south and southwest of the campus grounds. It would be sited to the rear of private householder garden boundaries on Royds Avenue and encircle the car park to the west to join existing green fencing around the tennis court and tarmacked playing area to the north. The fence will then be erected between the tarmacked playing field's fence and the Luck Lane Primary school fencing (to the northeast) completing the perimeter with existing green fencing.
- 10.4 This would exclude the main car park to the northeast, the large lawned playing fields to the east of the campus which would sit outside the perimeter fencing. There is an informal footpath outside of the proposed perimeter fencing providing access to Middle Wood/Recreation Grounds and the Allotments off the access road from Luck Lane which would remain accessible.

- 10.5 The proposal would consist of infill perimeter fencing between two existing green fenced areas (tennis court and tarmacked playing area to the north and Luck Lane Primary School) and encircle the south and west inner boundary of Royds Hall Community School campus to provide secure fencing for safeguarding. Currently the grounds are open to the public with multiple access routes/pathways which undermine security and safeguarding oversight.
- 10.6 The remaining areas outside of the perimeter fencing would be considered to aid the statutory safeguarding responsibility of the School to provide safe and secure grounds for its students and staff whilst allowing access to remaining UGS in the form of Allotments, Middle Wood and the Recreation Ground and lawned playing fields for educational use.
- 10.7 It is therefore considered that the proposal seeks to strike a balance between providing public access to the wider UGS and the safety and security of the privately owned educational UGS and school grounds for educational and safeguarding purposes. The proposal would not lead to a material loss of urban green space, would not affect the extent or function of the public UGS and would provide Royds Hall Community School with the means to increase the safety and security of the UGS within School grounds. This would therefore not conflict with LP61 of the Kirklees Local Plan.

Education

- 10.8 As an educational facility, LP47 (Healthy, active and safe lifestyles) and LP49 (Educational and health care needs) are relevant. The erection of a fence around school grounds could be regarded to create *'an environment which supports healthy, active and safe communities'* and may assist in access to *'play, sports, leisure and cultural facilities'* to be in *'close proximity to other community facilities for education'*.
- 10.9 Consideration will also therefore need to be given to LP49 and paragraph 95 (a) of the NPPF, in which Councils must give *'great weight to the need to create, expand or alter schools'* to ensure appropriate school provision in which the application for fencing would address identified safeguarding and crime prevention needs in its alteration.
- 10.10 As a result officers consider the proposal to accord with Policies LP47 and LP49 of the Kirklees Local Plan and the aims of Chapter 8 of the NPPF, in promoting healthy, active and safe communities.

Design

- 10.11 Policy LP24 (Design) of the Local Plan is relevant to the assessment of this proposal, specifically *'a) the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape'* and *'e) the risk of crime is minimised by enhanced security'*. In this instance, there are existing green fences around the tennis courts and Luck Lane Primary School. There are also steel metal fences of 1m height and wooden low fences of 0.5m height approximately. A 2.4m fence assisted by gated access would offer considerably more crime prevention benefits than the pre-existing 0.5-1m high fences, which can be vaulted or stepped over and open routes where no gates exist.

- 10.12 With regard to Chapter 12 of the NPPF under paragraph 130 c) and f), decisions should ensure that developments are *'sympathetic to local character and history, including the surrounding built environment and landscape setting'* and leading to the creation of *'places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience'*.
- 10.13 Officers consider that the proposed green mesh fencing would be in keeping with the existing green mesh fencing around the tennis court and tarmacked playing area to the north and Luck Lane Primary School to the east, being of similar material, height and design.
- 10.14 Officers have considered the proposal's design to be in accordance with existing fence forms and details in and around the heritage asset and landscape. The proposal could be regarded to provide a cohesive, lightweight, visually transparent scheme. Set against trees/green growth, it would not have any adverse visual impact on the school whilst also providing a high standard of safety for current and future students.
- 10.15 As a result, officers consider the proposal to accord with Policies LP24 of the Kirklees Local Plan under a) and e) and the aims of Chapter 12 of the NPPF, in achieving well-designed places.

Historic Environment

- 10.16 Turning to the Grade II Listed Royds Hall, set within the school grounds, and the Grade II 132 Luck Lane east of the outer boundary of the school grounds, S.66 of the Listed Building and Conservation Areas Act is relevant for decision makers. S.66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
- 10.17 The Kirklees Local Plan policy, LP35 (Historic environment) should also be carefully considered, with the presence of two Grade II Listed Buildings of historic significance and the slight harm as a consequence of the construction of the fence, as identified by the Conservation & Design Officer. Attention should turn to whether the proposed fence would be *'likely to result in substantial harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring substantial public benefits that clearly outweigh the harm'* under LP35.
- 10.18 In addition, paragraph 202 of the NPPF sets out that in development proposals leading to *'less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'*
- 10.19 Royds Hall is set within school grounds with extensions and buildings surrounding it to the east, south and west of similar heights screening it from view. The most visible elevation of the Listed Building is to the northeast with its entrance portal and when traversing from east to west the access road

taken off Luck Lane, the two storey elevation is partially screened by mature trees protected by TPOs and is on rising ground and the pre-existing fences to the Primary School and Playing fields are on lower ground, which mitigates their visual impact as visitors approach. The proposed infill section of fencing to the northeast would be 55m distance from Royds Hall and would in turn be partially screened by the mature trees in between.

- 10.20 132 Luck Lane is approximately 165m distance from the proposed site of the perimeter fencing to the northeast of the school grounds and is set at the beginning of the access road from Luck Lane screened by high hedging and a mature tree within its immediate setting.
- 10.21 Viewed from 132 Luck Lane towards Royds Hall, the existing green mesh fencing around Luck Lane Primary School and the tarmacked playing field adjacent to the Listed Building blends in with the background of the school aided by its open transparent mesh. The visible elements of the fencing from this distance are the posts whereby features of the building beyond are still visible between the posts. The access road is currently partially fenced with low grey metal fencing which is continued at the boundary of the Allotments softened by green hedging. Officers consider this proposal to have no harm to the immediate setting and views of or from 132 Luck Lane.
- 10.22 Viewed from Royds Hall, the proposed perimeter fencing section to the northeast between the existing green mesh fencing of the tarmacked playing field and Luck Lane Primary School would be considered to be infill fencing which would be of harmonising green mesh design and similarly match in height, material and colour. The pre-existing green metal fencing has a separation distance of 55m north to the tarmacked playing field and 25m west to the Luck Lane Primary School fencing which is in turn partially screened by the TPOs. The slight harm of this additional infill fencing would be mitigated by the TPOs in between the development and the Listed Building and the current adjacent boundary treatment of the tarmacked playing field and the Primary school.
- 10.23 To the south and west of Royds Hall from Victory Avenue and Royds Avenue, views of the Listed Building's elevations are hidden by its surrounding modern buildings and subsequent extensions. It cannot be viewed from those roads accordingly. The boundary treatment of Royds Hall Community School are currently low wooden fencing of no historic significance 0.5m height approximately. The boundary treatment of Luck Lane Primary School is green mesh fencing similar to what is proposed. As such, this proposal would have no harm to the setting of the Listed Building or views being screened by the surrounding non-Listed Buildings and existing examples of green mesh fencing would harmonise with the Primary School's boundary treatment.
- 10.24 The proposal does not seek to remove any historic walls, fences or gates of historic significance linked to the Listed Building. Its remaining historic elevation are visible from the northeast as the other elevations are screened heavily by the surrounding buildings of two-three storeys in height. Overall, the proposal is assessed to result in less than substantial harm to the setting of the Listed Buildings. In accordance with the Framework, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

- 10.25 Given the above, officers have considered the public benefits. These include the additional positive impact on security and safeguarding for school attendees and property, visual impact to be mitigated by its lightweight structure, set against green screening and the existing green fencing around the tennis court and adjacent Luck Lane Primary School, thereby providing a cohesive appearance. The reversibility of the fence should it be required is also noted. As such.
- 10.26 These educational benefits are considered to constitute a material planning consideration that outweigh the less than substantial harm to the Listed Building having regard to S.66, and sufficient to justify the proposal having regard to Policy LP35 and paragraph 202 of the NPPF. It would preserve the heritage assets and their setting and any features of special architectural or historic interest such that the proposal is considered to be acceptable.

Trees

- 10.27 Several trees are on and surrounding the site benefiting from the group and individual TPOs. They are sited to the boundary of Royds Hall Community School adjacent to Royds Avenue and Victory Avenue and to the north of the campus surrounding the car park to the northwest and north of the fenced tennis court/tarmacked playing field and northeast of the school grounds' main car park. There are TPOs immediately northeast of the Listed Building.
- 10.28 A supplied Method Statement states that the line of the fence will be carefully assessed to limit the amount of excavation occurring under trees. Where digging is required, it would be undertaken by hand to avoid de-barking, breaking, splitting, splintering or shattering the roots of the trees. No roots of 25mm or greater would be cut through without the approved consent gained by the Trees Officer to limit impact. Roots under 25mm would be cut to a point 150m beyond the nearest edge of the construction toward the tree(s) pruned cleaning with no ragged edges.
- 10.29 Post holes would be lined with heavy grade polythene sheeting to prevent the leaching of concrete into the soil or contamination of the roots.
- 10.30 The Tree Officer has confirmed that these measures should suffice to protect trees and a condition to be attached to have the works to be carried out to be compliant with the Method Statement to protect Trees protected under TPOs
- 10.31 The Condition applied to the Method Statement would be in compliance with policy LP33 of the Kirklees Local Plan.

Crime Prevention

- 10.32 Crime Prevention confirmed that the proposed boundary treatments are acceptable and would assist with the site security.

Residential Amenity

- 10.33 The nearest residential dwellings to the proposed development are those located along Royds Avenue and Victory Avenue to the south and southwest and Luck Lane to the east. In this instance, the proposed fence would be constructed of lightweight, see-through material. It would be green in colour and set against the open fields and trees, thereby reducing its visual impact. It

would also be set within school grounds where existing examples of similar green metal fencing had been previously approved. For these reasons, the proposal is not considered to have any material impact upon residential amenity in terms of overshadowing, overlooking, and overbearing.

Environmental Health

- 10.34 Environmental Health have raised no objection to the scheme. However, they have recommended that a condition to be placed on the reporting of unexpected contamination to the Local Planning Authority should any be discovered.

Other matters:

Climate change

- 10.35 It is considered that the proposed development would not have a significant negative impact in the context of the climate change emergency. While there would be no additional landscaping or planting as part of this application, the existing trees which line the curtilage of the school (and which positively contribute towards better air quality) would not be removed. In summary, it is considered that the scheme provides sufficient opportunity to meet the dimensions of sustainable development and the conditioned Trees Method Statement would confer sufficient protection to TPOs, which are of positive benefit in mitigating the impacts of climate change.

Representations

- 10.36 As a result of the above publicity, one representation and one petition with 100 6signees have been received.

- 10.37 The issues raised have been considered as follows:

- 4 meter plus high fence would visually appear as a prison style enclosure fence

Response: The fence would be 2.4m in height. Furthermore, the visual appearance has been assessed within the Design section of this report.

- Trees would be damaged and hindered in growth as a result and they are protected under a TPO

Response: This has been assessed by the Trees Officer supported by the Method Statement and no objections have been offered providing a recommended condition is placed:

The construction of the proposed shall be completed in accordance with the advice and directions contained in the Method Statement, reference (Termstall Fencing Contractors, ref Don 5289/21, dated 21/07/21). These shall be implemented and maintained throughout the construction phase.

Reason: *To protect trees in the interests of visual amenity and to accord with the requirements of the Kirklees Local Plan Policy LP33 and advice within the National Planning Policy Framework.*

- Local access to the forest would be restricted

Response: The grounds are for an educational facility and the proposal is set within its grounds and therefore this is not a material planning consideration. The section on Education in the assessment has considered the impact on safety.

- Heritage and government guidelines ensure all Grade II Listed Buildings keep all walls, boundaries, and grounds consistent with the original design and appropriate materials.

Response: The impact has been assessed within the Historic Environment section of the assessment.

11.0 CONCLUSION

- 11.1 The application site is designated as an Urban Green Space in the Local Plan and within the setting of a Listed Building. However, it is considered that there are material considerations and public benefits, which outweigh the development's harm to the Listed Building and justify the erection of a perimeter fence under the Local Plan and the NPPF as set out in the report. These material considerations consist of a recognised need for improved educational facilities at the site, which accord with Policy LP49 of the KLP and Paragraph 95a) of the NPPF.
- 11.2 Furthermore, 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. In such circumstances it is considered that there are no adverse impacts of granting permission which would significantly and demonstrably outweigh the benefits when assessed against the policies in this framework taken as a whole, or that specific NPPF policies indicate development should be restricted. In such circumstances the application is recommended for approval.

12.0 CONDITIONS

(Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)

1. Three years to commence development.
2. Approved plans and documents.
3. External materials.
4. The removal of the fence (and land to be restored) should it no longer be needed.
5. Construction in accordance with the Method Statement for tree protection.
6. Dealing with unexpected contamination.

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f92478>

Certificate of Ownership – Certificate A has been signed.