

# Public Document Pack



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

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Wednesday 8 December 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 16 December 2021**.

(A coach will depart the Town Hall, at 10:30 am 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".

**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

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**Pages**

**1: Membership of the Committee**

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

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**2: Minutes of the Previous Meeting**

1 - 8

To approve the Minutes of the meeting of the Committee held on 18 November 2021.

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**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.

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**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.

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**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.
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## **6: 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.

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## **7: Site Visit - Application No: 2021/91700**

Erection of extension to vehicle workshop, engineering operations to excavate and regrade land, formation of extensions to car park and external yard areas, erection of 2.4m high security fencing, external lighting and temporary construction access MAC's Truck Sales Ltd, Crosland Road, Lindley, Huddersfield.

(Estimated time of arrival at site 10:45 am).

Contact Officer: RichardA Gilbert, Planning Services.

Ward(s) affected: Lindley

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## **8: Site Visit - Application No: 2021/93674**

Partial redevelopment of Greenhead college including demolition and making good, erection of 2 and 4 storey buildings, reconfiguration of parking and access arrangements, reconfiguration of sports provision and other associated external works (Within a Conservation Area) Greenhead College, Greenhead Road, Huddersfield.

(Estimated time of arrival at site 11:10 am)

Contact officer: Nick Hirst, Planning Services

Ward(s) affected: Greenhead

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## 9: 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 13 December 2021.

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

Please note that measures will be in place to adhere to COVID secure rules, including social distancing requirements. This will mean that places will be limited

Members of the public who are unable to attend in person will be able address the Committee virtually.

You will receive details on how to speak at the meeting in your acknowledgement email.

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.

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## 10: Planning Application - Application No: 2021/92801

13 - 50

Erection of 287 dwellings with associated works and access from Hunsworth Lane and Kilroyd Drive Land at, Merchant Fields Farm, off Hunsworth Lane, Cleckheaton.

Contact Officer: Victor Grayson, Planning Services.

Ward(s) affected: Cleckheaton.

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- 11: Planning Application - Application No: 2021/93674** 51 - 86
- Partial redevelopment of Greenhead college including demolition and making good, erection of 2 and 4 storey buildings, reconfiguration of parking and access arrangements, reconfiguration of sports provision and other associated external works (Within a Conservation Area) Greenhead College, Greenhead Road, Huddersfield.
- Contact officer: Nick Hirst, Planning Services
- Ward(s) affected: Greenhead
- 
- 12: Planning Application - Application No: 2021/91826** 87 - 100
- Variation of Condition 30 (Restoration Scheme) of previous permission 2000/90671 for the extension of Carr Hill Quarry including the extraction of sandstone and clay, associated ancillary activities and its restoration by means of infill with inert wastes, consolidating permission 1987/05723 Extension of a disused quarry for winning minerals and subsequent backfilling with approved inert waste Carr Hill Quarry, Barnsley Road, Shepley, Huddersfield.
- Contact Officer: Farzana Tabasum, Planning Services.
- Ward(s) affected: Denby Dale
- 
- 13: Planning Application - Application No: 2018/93676** 101 - 126
- Infill of land and formation of access and turning facilities, temporary fence and restoration to agricultural use Land North West, Hog Close Lane, Holmfirth.
- Contact Officer: Farzana Tabasum, Planning Services.
- Ward(s) affected: Holme Valley South
- 
- 14: Planning Application - Application No: 2021/91700** 127 - 148
- Erection of extension to vehicle workshop, engineering operations to excavate and regrade land, formation of extensions to car park and external yard areas, erection of 2.4m high security fencing, external lighting and temporary construction access MAC's Truck Sales Ltd, Crosland Road, Lindley, Huddersfield.
- Contact Officer: RichardA Gilbert, Planning Services.
- Ward(s) affected: Lindley.
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**15: Planning Application - Application No: 2021/91172**

149 -  
168

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) Crown Motors, Waterloo Road, Waterloo, Huddersfield.

Contact Officer: William Simcock, Planning Services.

Ward(s) affected: Dalton.

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### **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 18th November 2021**

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

**1 Membership of the Committee**

All Members of the Committee were in attendance.

**2 Minutes of the Previous Meeting**

The minutes of the meeting of the Committee held on 21<sup>st</sup> October 2021 were agreed as a correct record.

**3 Declaration of Interests and Lobbying**

Councillor Thompson advised that Application 2021/90357 was in his ward and he had had prior involvement with the proposals for the site.

Councillor Pattison advised, in respect of Application 2021/92478, that she was a member of Kirklees Schools Services.

**4 Admission of the Public**

All items on the agenda were taken in public session.

**5 Public Question Time**

No questions were asked.

**6 Site Visit - Application No. 2021/90357**

Site visit undertaken.

**7 Deputations/Petitions**

No deputations or petitions were received.

**8 Planning Application - Application No: 2021/92528**

The Committee considered Application No. 2021/92528 relating to the erection of retail development, associated parking, servicing areas and landscaping at land off Bankwood Way, Birstall Retail Park, Birstall.

## Strategic Planning Committee - 18 November 2021

### **RESOLVED –**

That consideration of the application be deferred to enable officers to undertake further assessment of the retail impacts of the proposed development.

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

For: Councillors Bellamy, Greaves, Hall, Pattison, Pinnock, Sokhal and Thompson (7 votes)

### **9 Planning Application - Application No: 2018/92647**

The Committee considered Application No 2018/92647, a 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) at the former Kirklees College, New North Road, Huddersfield.

Under the provisions of Council Procedure Rule 37, the Committee received representations from Richard Irving and Paul Fox (in support).

### **RESOLVED -**

That consideration of the application be deferred, until no later than the meeting of the Committee scheduled for 24th March 2022, to allow officers to negotiate further with the applicants in respect of:

- (i) securing works to the Grade II\* listed buildings to make them weatherproof and watertight, in order to ensure that they are preserved, at an early stage of development.
- (ii) achieving certainty in respect of the restoration and conversion of the listed buildings in the future.

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

For: Councillors Bellamy, Greaves, Hall, Pattison, Pinnock, Sokhal and Thompson (7 votes)

### **10 Planning Application - Application No: 2019/94165**

The Committee considered Application No. 2019/94165 relating to the demolition of existing mills and associated structures, erection of five commercial units, and associated yard works at Butt End Mills, Chadwick Lane, Lower Hopton, Mirfield.

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

## Strategic Planning Committee - 18 November 2021

### 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 and the update, as set out below:

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

and to secure a Section 106 Agreement to cover the following matters:

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

In the circumstances where the Section 106 agreement has not been completed within three 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 be authorised to determine the application and impose appropriate reasons for refusal under delegated powers.

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

For: Councillors Bellamy, Greaves, Hall, Pattison, Pinnock, Sokhal and Thompson (7 votes)

**11 Planning Application - Application No: 2021/93368**

The Committee considered Application No. 2021/93368 relating to the re-development of the market with addition of mezzanine floor at Dewsbury Market, Cloth Hall Street, Dewsbury.

Under the provisions of Council Procedure Rule 37, the Committee received representations from David Staniland, Keith Ramsay and Simon Taylor (in support).

**RESOLVED –**

That approval of the application be granted subject to Regulation 3 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 and the update, as set out below:

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

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

For: Councillors Bellamy, Greaves, Hall, Pattison, Pinnock, Sokhal and Thompson (7 votes)

**12 Planning Application - Application No: 2021/90357**

The Committee considered Application No. 2021/90357 relating to 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 at East Bierley Playing Fields, Hunsworth Lane, East Bierley.

Under the provisions of Council Procedure Rule 37, the Committee received representations from Andrew Walker, Simon Armitage and David Storrie (in support).

Under the provisions of Council Procedure Rule 36(1), the Committee received representations from Councillor Elizabeth Smaje.

**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. 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.

## Strategic Planning Committee - 18 November 2021

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

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

For: Councillors Bellamy, Greaves, Hall, Pattison, Pinnock, Sokhal and Thompson (7 votes)

### 13 **Planning Application - Application No: 2021/91758**

The Committee considered Application No. 2021/91758 relating to the formation of a six-space car park at Trabel House, 26-28 Cambridge Road, Huddersfield.

#### **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. 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,

together with an additional condition in respect of the submission of a landscaping scheme.

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

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

Abstain: Councillors Bellamy, Greaves and Thompson

### 14 **Planning Application - Application No: 2021/92478**

The Committee considered Application No. 2021/92478 relating to the erection of perimeter fencing at Royds Hall Community School, Luck Lane, Paddock.

**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. 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.

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

For: Councillors Bellamy, Greaves, Hall, Pattison, Pinnock, Sokhal and Thompson  
(7 votes)

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<p><b>KIRKLEES COUNCIL</b></p> <p><b>DECLARATION OF INTERESTS AND LOBBYING</b></p> <p>Strategic Planning Committee</p>			
<b>Name of Councillor</b>			
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 27<sup>th</sup> 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 20<sup>th</sup> July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6<sup>th</sup> March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

## **REPRESENTATIONS**

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

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

## **EQUALITY ISSUES**

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

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

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

## **HUMAN RIGHTS**

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

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

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

## **PLANNING CONDITIONS AND OBLIGATIONS**

Paragraph 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.**

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

Date: 16-Dec-2021

**Subject: Planning Application 2021/92801 Erection of 287 dwellings with associated works and access from Hunsworth Lane and Kilroyd Drive Land at, Merchant Fields Farm, off Hunsworth Lane, Cleckheaton**

#### APPLICANT

Harron Homes Ltd

#### DATE VALID

30-Jul-2021

#### TARGET DATE

29-Oct-2021

#### EXTENSION EXPIRY DATE

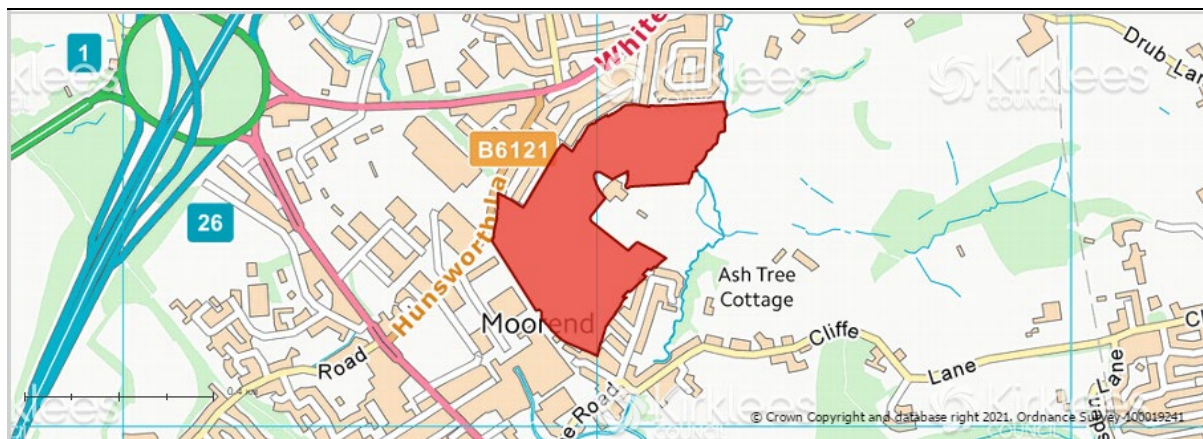
31-Dec-2021

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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

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**Electoral wards affected:** Cleckheaton

**Ward Councillors consulted:** Yes

**Public or private:** Public

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**RECOMMENDATION:**

Subject to the Secretary of State not calling in the application, 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) Affordable housing – 57 affordable dwellings (31 affordable rent, 26 intermediate) to be provided in perpetuity.
- 2) Open space – Off-site contribution of £419,324 to address shortfalls in specific open space typologies (with potential for significant reduction subject to the detailed design of the on-site provision, particularly with respect to the “parks and recreation” and “children and young people” open space typologies).
- 3) On-site open space inspection fee – £1,000.
- 4) Education – £1,159,213 contribution to be spent on upon priority admission area schools within the geographical vicinity of the site (vicinity to be determined).
- 5) Off-site highway works – £65,000 contribution (£50,000 towards new signal equipment at Whitehall Road / Hunsworth Lane junction, and £15,000 towards Bluetooth journey time monitoring equipment at Bradford Road / Hunsworth Lane / Whitechapel Road junction).
- 6) Sustainable transport – Measures to encourage the use of sustainable modes of transport, including a £145,000 contribution towards sustainable travel measures, implementation of a Travel Plan, £15,000 towards Travel Plan monitoring, and a £10,000 contribution towards bus stop improvements.
- 7) Air quality mitigation – Contribution of circa £162,000.
- 8) Biodiversity – Contribution of circa £120,000 towards off-site measures to achieve biodiversity net gain.
- 9) Management and maintenance – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker).

In the circumstances where the Section 106 agreement has not been completed within three months of the date of the Committee’s resolution (or of the date the Secretary of State for Levelling Up, Housing and Communities confirms that the application would not be called in) 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 mitigation and 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 This is an application for full planning permission for the erection of 287 dwellings.
- 1.2 This application is presented to Strategic Planning Committee as the proposal is a residential development of more than 60 units.
- 1.3 This application is a resubmission of application ref: 2019/93303 which related to a residential development 267 dwellings. That application was refused by the Strategic Planning Committee on 28/04/2021 (decision issued 21/05/2021) for the following reason:
- “The proposed layout does not deliver a sufficient mix of housing suitable for different household types because it is overly dominated by four bedroom detached dwellings. Furthermore, the double hedgerow within the site, which is classed as ‘important’ under the Hedgerow Regulations 1997, would not be retained in situ and it has not been adequately demonstrated that this hedgerow can be translocated without unduly prejudicing its ability to survive. As such, the proposal results in a poor-quality layout and the application is contrary to Policies LP11, LP24 and LP65 of the Kirklees Local Plan and guidance in chapter 5 and chapter 12 of the National Planning Policy Framework.”*
- 1.4 The current, revised scheme seeks to respond to the previous reason for refusal through changes to the site layout and housing mix, and the submission of additional information in relation to the translocation of the important hedgerow.
- 1.5 In relation to the current application, a position statement was considered by the Strategic Planning Committee on 21/10/2021. That position statement set out details of the application (when 284 dwellings were proposed), the consultation responses and representations that had been received, and the main planning issues relevant to the application. Members of the Strategic Planning Committee provided comments on the main planning issues.
- 1.6 Following Members’ consideration of that position statement, the applicant increased the number of dwellings proposed to 287 and provided further supporting information.
- 1.7 The application is now brought to the Strategic Planning Committee for determination, in accordance with the Council’s Scheme of Delegation.
- 1.8 It is noted that the Secretary of State for Levelling Up, Housing and Communities (SoS) has received a request from a third party to call in the current application. Officers have given an undertaking to the SoS not to issue the decision notice should the Strategic Planning Committee resolve to approve the application – this is to give the SoS an opportunity to decide whether or not to call in the application, which he would only do if the Strategic Planning Committee resolve to grant permission. The position regarding the SoS is reflected in the officer recommendation.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site is located towards the northern extent of Cleckheaton and comprises unused agricultural grazing land amounting to some 12.01 hectares.
- 2.2 The site wraps around Merchant Fields Farm, which comprises a group of four dwellings. The access to these dwellings is via an unadopted track at the end of Kilroyd Drive which passes through the application site.
- 2.3 The area to be developed comprises five adjoining fields which are separated by tree and hedgerow boundaries. The two fields at the centre of the site are gently sloped, however the two fields making up the southern portion of the site and the field in the north-eastern part of the site slope down relatively steeply towards the site boundaries.
- 2.4 The site is located in an area where there are a mix of uses. Residential development lies to the north, northwest and south-eastern boundaries and there is employment land to the southwest. Open land exists to the east. Nearby residential streets are relatively densely-developed and accommodate mainly semi-detached and terraced housing. This includes two-storey houses, chalet bungalows and bungalows.
- 2.5 Public footpath SPE/41/10 runs alongside the southwestern site boundary, and public footpath SPE/44/30 runs through the northeast corner of the site and continues alongside the site's south-eastern boundary. Nann Hall Beck meets the site's north-eastern boundary.
- 2.6 Land to the east of the site is within the green belt. Land to the southwest is within a Priority Employment Area.

## **3.0 PROPOSAL:**

- 3.1 The application is for full planning permission for the erection of 287 dwellings.
- 3.2 A new vehicular access point is proposed on Hunsworth Lane (the B6121), where a new right-turn lane would be provided. A second vehicular access point would be formed at the south end of Kilroyd Drive where a private lane currently provides access to Merchant Fields Farm. New estate roads would extend from these access points. Private drives (off the new estate roads) would serve some of the proposed dwellings. Pedestrian connections to the adjacent public footpaths are proposed.
- 3.3 Open spaces are proposed along the site's southwestern edge, in the site's north-eastern corner, and adjacent to Brookfield Terrace and Brookfield View. Small areas of green space are also proposed in other locations.
- 3.4 Drainage attenuation tanks are proposed beneath the open spaces close to the southwestern edge and northeast corner of the site. From these, surface water would discharge to Nann Hall Beck to the east, and to Hunsworth Beck / the River Spen via an existing Yorkshire Water overflow drain under Hunsworth Lane. Foul water would discharge to existing sewers beneath the site and Hunsworth Lane.



- 3.5 Off-street car parking is proposed in private driveways and garages.
- 3.6 All dwellings would be two-storey. Eleven house types are proposed. The proposed external materials include red brick and artificial stone, and red and grey concrete roof tiles.
- 3.7 36x 2-bedroom, 70x 3-bedroom and 181x 4-bedroom dwellings are proposed. 57 of the 287 dwellings would be affordable, of which 31 dwellings (55%) would be affordable rent and 26 (45%) would be intermediate.

**4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

- 4.1 2019/93303 – Erection of 267 dwellings with associated works and access from Hunsworth Lane and Kilroyd Drive – permission refused 21/05/2021

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

- 5.1 The table below sets out how the overall number of units and the unit size mix have changed since the previous application and the October 2021 position statement were considered.

Refused application 2019/93303		Application resubmission 2021/92801 – position statement considered 21/10/2021		Application resubmission 2021/92801 – current proposal		Change from the 267-unit proposal
<b>Units</b>	267	<b>Units</b>	284	<b>Units</b>	287	20-unit (7.5%) increase
<b>1-bed</b>	0	<b>1-bed</b>	0	<b>1-bed</b>	0	No change
<b>2-bed</b>	26	<b>2-bed</b>	36	<b>2-bed</b>	36	10-unit (38%) increase
<b>3-bed</b>	50	<b>3-bed</b>	61	<b>3-bed</b>	70	20-unit (40%) increase
<b>4-bed</b>	191	<b>4-bed</b>	187	<b>4-bed</b>	181	10-unit (5.2%) decrease

- 5.2 The increase in the quantum of development has been achieved by revising parts of the previous layout and extending the proposed built-up area closer to the south-eastern site boundary. Three dwellings have also been added close to Nann Hall Beck (units 49, 50 and 51).
- 5.3 The applicant has provided additional supporting information in relation to the methodology for the translocation of the “important” hedgerow. The submitted Hedgerow Translocation Method Statement has been prepared by a company who have previously carried out similar work.
- 5.4 During the life of the current application, negotiations regarding the following matters have been undertaken:
- Officers requested that the applicant review the proposals in light of paragraph 131 of the revised National Planning Policy Framework, which states that planning decisions should ensure that new streets are tree-

lined (unless, in specific cases, there are clear, justifiable and compelling reasons why this would be inappropriate). The applicant submitted an amended landscaping layout which seeks to respond to this matter.

- The amended landscaping plan also seeks to address concerns raised by Yorkshire Water regarding the proximity of planting to a sewer within the site.
- The applicant has submitted additional information in response to comments made by the Coal Authority regarding an identified coal mining feature close to the proposed access on Hunsworth Lane.
- Vehicle swept path tracking (intended to demonstrate that the proposed estate road layout can accommodate an 11.85m refuse collection vehicle) has been included on site layout drawings.
- A detailed drawing of the Hunsworth Lane site entrance was submitted.
- An updated Flood Risk Assessment (rev D) has been submitted.
- The applicant submitted missing and revised house type drawings and confirmed that the Salcombe house type is no longer proposed.
- The applicant provided clarification regarding external materials and confirmed that buff brick is no longer proposed.
- Unit size information and a breakdown of the proposed affordable housing provision was provided.

5.5 Pre-application negotiation, and negotiation undertaken during the life of the previous application (ref: 2019/93303), was detailed in the committee report for that application.

5.6 Amendments and further information submitted during the life of the application did not necessitate local reconsultation.

## **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 allocated for residential development in the Local Plan (site allocation ref: HS96). The site allocation sets out an indicative housing capacity of 413 dwellings, and identifies the following constraints relevant to the site:

- Noise sources near site – industrial estates on Hunsworth Lane and Riverside Drive and M62 motorway
- Potentially contaminated land
- Part of site lie within a UK BAP priority habitat
- Site is within the Wildlife Habitat Network
- Site is close to archaeological site
- Part/all of the site is within a High-Risk Coal Referral Area
- Public right of way crosses the north-eastern corner of the site

6.3 Site allocation HS96 also identifies the following site-specific considerations:

- Additional mitigation on the wider highway network will be required. Development of this site has the potential for a significant impact on the Strategic Road Network. Measures will be required to reduce and mitigate that impact. The transport assessment will need to demonstrate that any committed schemes are sufficient to deal with the additional demand generated by the site. Where committed schemes will not provide sufficient capacity or where Highways England does not have committed investment, development may need to contribute to additional schemes identified by Highways England and included in the Infrastructure Delivery Plan (IDP) or other appropriate schemes. If development is dependent upon construction of a committed scheme, then development will need to be phased to take place following scheme opening.
- Rivers and hedgerows are both Habitats of Principal Importance under section 41 of the Natural Environment and Rural Communities Act 2006. Any application for this site will include a buffer from Nann Hall Beck to provide an opportunity for enhancement of the local ecological network. This buffer shall not form part of any domestic curtilage and enhancement can best be provided in this location by creating a flower rich grassland with scattered scrub.
- 

6.4 Site allocation HS96 refers to a gross site area of 12.10 hectares, but identifies a net site area of 11.65 hectares, allowing for the retention of the site's existing hedgerows and a vegetated buffer adjacent to the Nann Hall Beck at the northeast of the allocation.

6.5 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  
LP19 – Strategic transport infrastructure  
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

LP48 – Community facilities and services  
LP49 – Educational and health care needs  
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  
LP63 – New open space  
LP65 – Housing allocations

Supplementary Planning Guidance / Documents and other documents:

6.6 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)
- Affordable Housing SPD (2008)
- 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 SPD (2019)
- Waste Management Design Guide for New Developments (2020)
- Green Street Principles (2017)
- Viability Guidance Note (2020)
- Planning Applications Climate Change Guidance (2021)
- Housebuilders Design Guide SPD (2021)
- Open Space SPD (2021)
- Biodiversity Net Gain Technical Advice Note (2021)

Climate change

6.7 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.

6.8 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:

6.9 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

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

6.11 Relevant national guidance and documents:

- National Design Guide (2019)
- Technical housing standards – nationally described space standard (2015, updated 2016)
- Fields in Trust Guidance for Outdoor Sport and Play (2015)
- National Model Design Code (2021)
- Hedgerows Regulations 1997

## **7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application has been advertised as a major development affecting public rights of way. Site notices were posted, a press notice was published on 02/09/2021, and notification letters were sent to neighbouring properties. This is in line with the council's adopted Statement of Community Involvement. The end date for publicity was 23/09/2021.

7.2 105 representations have been received. A summary of the representations is provided below.

### *Planning history:*

- Application now proposes more houses so impacts will be worse than previously refused application.
- Objections raised to the previous application are still relevant.
- Proposal does not address the previous reason for refusal in relation to housing mix. Proposed mix of housing is unsuitable.

- Proposal does not address the previous reason for refusal in relation to the hedgerow. The important double hedgerow should be incorporated into the layout, not translocated elsewhere within the site

#### *Highways:*

- Impact of increased traffic on local highway network, including key junctions.
- Local highway network cannot accommodate the additional traffic. There are already congestion problems in this area.
- Impact on queuing times at junctions. Additional traffic will be detrimental to highway safety.
- Local junctions will be operating well over capacity.
- Cumulative highway effects with other planned / committed developments in the area.
- Kilroyd Drive unsuitable to accommodate the additional traffic.
- On-street parking on Kilroyd Drive narrows its width and makes it unsuitable to serve the development.
- Impact of construction traffic and development traffic on Kilroyd Drive. Construction access should be taken from the proposed new access on Hunsworth Lane, not Kilroyd Drive.
- Concerned that the developer will not construct the Hunsworth Lane access, and all traffic will go via Kilroyd Drive.
- Traffic mitigation measures are required for development on this site, as set out in the Local Plan.
- Safety concerns with the proposed access on Hunsworth Lane. Access is on a bend.
- Public transport infrastructure inadequate to support this development.
- Development will be reliant on private car because of limited bus services in this location.
- Development will be used as a rat-run between the proposed points of access.
- Suggestion for a Traffic Regulation Order on Kilroyd Drive to prevent the site being used as rat-run and consequently limit the impact on residents of Kilroyd Drive.
- Internal road layout is unsuitable for large vehicles and will require reversing manoeuvres.
- Applicant's transport assessment is inadequate.
- The submitted Travel Plan is unrealistic and does not reflect the reality of local circumstances.
- Public transport infrastructure inadequate to support this development.
- Impact on footpaths.
- Cycle paths should be provided.

#### *Amenity:*

- Detrimental impact on outlook.
- Overbearing / imposing impact on adjacent houses.
- Overshadowing / loss of light.
- Overlooking / loss of privacy.
- Noise and air pollution from additional traffic.
- Air quality monitoring needs to be carried out closer to the site with cumulative impacts of other planned / committed developments also taken into account.

- Impact on health as a result of increased air pollution.
- Increased light pollution.
- Loss of an accessible local beauty spot.
- Nuisance and disturbance from construction activities.
- Impact on amenity of residents of Kilroyd Drive by using this road as an access.

*Land stability and contamination:*

- Concern regarding the impact on public safety from the legacy of coal mining activity.
- Site instability due to historic mining legacy.
- Evidence of active subsidence on the site.
- The fourth mine shaft close to Hunsworth Lane has not been adequately investigated.
- Concerns regarding mine gas.
- Gas protection measures for new houses should be provided. No information regarding this has been submitted.
- There could be other mining features that have not been identified.

*Flooding:*

- Concerned that the development will increase flood risk on and off the site.
- There are existing flooding problems in this area. Proposal is likely to exacerbate these.
- Site is prone to flooding.
- There are existing road flooding problems on Kilroyd Drive. Any planning permission should be subject to existing problems being addressed.
- There have been flood incidents at nearby properties.
- Developing the land will mean surface water run-off is increased.
- Cumulative impact on flooding from this development and other planned / committed developments in the area.
- Increased risk of flooding to existing property from greater discharge to the adjacent beck.
- Loss of natural drainage provided by the existing fields, which will increase flood risk elsewhere.
- Impact of vegetation removal on flood risk.
- Proposed attenuation is inadequate.
- Section 19 report should have been considered.

*Infrastructure:*

- Increased pressure on schools and medical service providers.
- Inadequate infrastructure and amenities to support the additional housing proposed, including shops.
- Cumulative impact with other developments must be taken into account when considering the impact on facilities and services.

### *Ecology:*

- Detrimental impact on flora and fauna including owls, bats, foxes, herons.
- Loss of habitat.
- Detrimental impact on the ecosystem of the adjacent watercourse.
- Impact on the “important” hedgerow by translocating it. Concern that it will not survive.
- Trees and hedgerows have previously been removed from the site.
- Net loss to biodiversity.
- Submitted ecological reports are out of date and contain inaccuracies.

### *Landscape and urban design:*

- Loss of green fields.
- Land was green belt.
- Development will merge Hunsworth and Cleckheaton.
- Housing will detrimentally affect the established character of this area.
- Hunsworth will lose its rural feel and character.
- Overly dense form of development.
- Inadequate open space provided

### *Other matters:*

- Development needs to be assessed in the context of other Local Plan allocations in this area – cumulative impact.
- Many of the submitted reports need updating.
- Size of new dwellings (majority large detached) is out of keeping with the area which is mainly 2/3-bedroom terraced and semi-detached.
- Brownfield sites should be built on first.
- Proposed community orchard may attract anti-social behaviour.
- There is a Roman road running through the site. Archaeological investigation and recording is required.
- Inadequate play areas for children of all ages.
- Inadequate engagement by the developer with the local community.
- A contribution should be sought to improve the public realm in Cleckheaton town centre.
- Building houses on these open fields is inconsistent with achieving net zero climate change and similar environmental commitments.
- Question the competency of the developer.
- Negative impact on house prices.
- Query as to whether pre-commencement conditions have been drafted and agreed with the developer.
- Residents’ rights under the Human Rights Act would not be upheld.

7.3 Councillor Kath Pinnock (Member for Cleckheaton ward) commented on the application as follows.

- *Please can this application be considered by committee given the size of the application and the number of objections?*



- *I am not convinced that the latest proportions of different house types and sizes in the plan are sufficient to meet the concerns raised at the last committee and meet the Council's policy objectives.*
- *The fourth mine shaft has still not been located.*
- *Currently the double hedge is both protected under the legislation but also deemed to be a significant feature in the local landscape. How can both these be retained if the hedge is moved as per the application?*

7.4 Councillor Kath Pinnock provided the following further comments on 08/11/2021:

*I accept that the site has been allocated for housing. However, the application fails in a number of regards to fulfil the principles for housing development as set out in the Council's Planning Supplementary Guidance which was adopted in June 2021. These are:*

1. *Density – the aim is for a density of 35 per hectare whereas the application is at a density of 25.6 per hectare. The consequence of accepting lower densities is that more land has to be allocated for housing across Kirklees.*
2. *Principle 2 set out in the Supplementary Planning Guidance refers to new sites taking their "cue from the character of the local built environment". This new application has reduced the number of detached dwellings by four but detached properties remain the overwhelming house type. This is despite the fact that terraces and semi-detached houses are the main house type in the area.*
3. *Active travel – the plan hardly fulfils the requirements of access to public transport. The applicant references the bus stops at the end of Kilroyd Drive. There are just two buses a DAY from these stops. To access buses to Bradford, Dewsbury, and Cleckheaton buses are from bus stops at Moorend. For cycling the nearest access to the Spen Valley Greenway is from Whitechapel Road. The consultation report from WYCA states "the analysis over emphasises the catchments for both modes and isn't a realistic indication of what the walking and cycling catchment is". WYCA further comments, "There are some long cul-de-sacs which mean that pedestrian/cycle connectivity is very poor. This means car travel becomes a more convenient alternative. This is particularly notable adjacent to Links Avenue."*
4. *Landscaping and play and amenity space – The consultation report from WYCA has some very critical comments to make: "The development's layout does not appear to be well connected into the surrounding area and seems to have been designed to be self-contained. The following layout features potentially mean that private car journeys are likely to be the preferred method of travel: • green spaces are concentrated at the edge of the development with none of them as a community focal point. A green space surrounded by houses overlooking it, even if it is quite small, can lead to more community activity and active travel; • Some of the green spaces are not sufficiently overlooked to make them welcoming for all - for instance the orchard, the entrance to the site and the informal kickabout space at the North East of the site." There is much to be concerned about in regards to play areas and amenity spaces which are all sited on the boundaries. One of the areas allocated for children is on a 1 in 6 slope leading onto the busy Hunsworth Lane.*

5. *Flooding – there are flooding issues associated with the site. The advice for the discharges from the 2 attenuation tanks has changed significantly from the previous application. The discharge rates are now advised to be reduced from 19.8l/s to 17.5l/s and 39 l/s (sic) to 3.5 l/s. There is also mention of the creation of a ditch and a "rain garden" which both indicate the flooding issues that occur. A further concern that needs to be addressed is the cumulative impact of the additional discharges from this site, from the "Amazon" application in Scholes, and the North Bierley waste water treatment works site in Oakenshaw all of which will feed into the River Spen at Balme Road where flooding is already a frequent problem.*

6. *Yorkshire Water – the consultation response could not be clearer. YW objects in very strong wording to the layout of the site and, in particular, the fact that an 800mm siphon sewer must have a 5m stand off on each side. The line of the sewer is not accurately known, and the applicant has not identified the sewer line which is clearly of vital importance.*

7. *Coal mine shafts – the location of the 4th shaft is still not known and although undevelopable land has been indicated where it is estimated to lie, nevertheless, it does seem neglectful that the 4th shaft hasn't been properly located.*

8. *Hedgerow – the double hedgerow, deemed to be a significant feature in the Local Plan, is to be dug up and re-planted as a single hedge on the boundary. This will inevitably result in a loss of biodiversity. The Council's SPG states that any development should result in a 10% improvement in biodiversity. Here there is a negative outcome. It is not acceptable for this to be offset elsewhere. The Cleckheaton area is already suffering a negative impact in terms of the environment. Improvements must occur on site.*

9. *Air quality – there are no measurements of the reduction in air quality as a result of the additional traffic from this large site. There must be prior to any development being agreed.*

10. *Traffic congestion – the traffic lights at Hunsworth Lane are already operating beyond capacity, as are those at the Moorend crossroads. It is now apparent that National Highways has decided that any slip road from the M62 to the M606 is now no longer to proceed. This slip road has been a possibility for at least 30 years. Its purpose was to remove traffic from the congested Chain Bar roundabout. What assessment has been made of the impact on Chain Bar of all the additional traffic from the various development sites in the area? As the traffic lights at Hunsworth Lane are already over capacity there will be queuing. This already occurs at peak times and takes traffic well up the A58 towards Birkenshaw. In such circumstances, how is traffic to exit the new development from Kilroyd Drive at peak times?*

*In conclusion, there are many issues that the applicant has failed to address adequately. I hope that there will be a requirement for a further application to deal with these matters.*

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

8.2 KC Highways Development Management – No objection in principle, subject to design of Hunsworth Lane access being resolved, and submission of satisfactory road safety audit and designer's response.

- 8.3 KC Lead Local Flood Authority – No objection subject to conditions and Section 106 agreement. No objection to 17.5l/s maximum discharge rate to Nann Hall Beck, or to 3.5l/s maximum discharge rate to sewer overflow. Conditions recommended regarding detailed design of surface water attenuation, temporary (construction phase) surface water drainage, and swale maintenance. Section 106 should secure management company responsibilities for sustainable drainage systems until adopted, and for ditch / watercourse.
- 8.4 The Coal Authority – No objection subject to conditions. Site is within the defined Development High Risk Area. There are four mine shafts present within the application site. Regarding shaft 418426-008, applicant has confirmed that the proposed layout of development is such that no building plots or highway infrastructure will be located within the calculated zone of influence of the shaft, which will be accommodated entirely within a landscaped area. Welcome applicant's intention to undertake remedial works to stabilise shallow mine workings present beneath the site and to treat mine shafts 419426-001, 419426-002 and 419426-005. Mine gas should be considered. Implications of sustainable drainage systems should be considered in relation to the stability and public safety risks posed by coal mining legacy. Conditions recommended regarding implementation and validation of remedial works.
- 8.5 National Highways (formerly Highways England) – No objection subject to condition requiring a construction phase traffic management plan.
- 8.6 Non-statutory:**
- 8.7 KC Ecology – The development would result in a net biodiversity loss and an off-site financial contribution is necessary in order to deliver a net biodiversity gain of 10%.
- 8.8 KC Education – A contribution of £1,159,213 is required towards education provision.
- 8.9 KC Environmental Health – Regarding air quality, condition recommended requiring revised Air Quality Assessment. A financial contribution towards air quality mitigation will be required. Regarding site contamination, conditions recommended securing revised Phase 2 report (including ground gas data), remediation details, implementation of remediation, and validation. Regarding noise, condition recommended securing revised Noise Impact Assessment. Conditions also recommended regarding electric vehicle charging and a Construction Environmental Management Plan.
- 8.10 KC Landscape – There is an opportunity to provide high quality open space provision on this site, including play provision for children and young people. On-site provision to meet the needs of children and young people should be considered in the first instance, before an off-site commuted sum is considered. Aspects of the proposed open space provision have been well thought-out, such as the community orchard. However, a much more expansive and detailed scheme is necessary for the development to fully meet the different open space typologies, particularly in relation to parks and recreation and equipped play. The scale of the development also generates a requirement for outdoor sport provision, which would be sought as a commuted sum.

- 8.11 KC Public Health – No objections raised. Detailed comments provided regarding affordable housing, physical activity, diet, inclusion and social cohesion, environmental quality, active travel, crime and safety, and access to social infrastructure.
- 8.12 KC Strategic Housing – There is significant need for affordable 1-, 2-, 3- and 3+-bedroom homes in Batley and Spen. The proposal triggers a requirement for 57 affordable dwellings (20% of the total number of units). A tenure split of 55% social or affordable rent to 45% intermediate housing should be sought. The affordable housing should be distributed evenly throughout the development and not in clusters and must be indistinguishable from market housing in terms of both quality and design. Strategic Housing would prefer to see the clusters of affordable homes further dispersed where possible.
- 8.13 KC Trees – No objection. Condition recommended requiring the development to be carried out in accordance with the submitted hedgerow translocation method statement.
- 8.14 KC Waste Strategy – All plots appear to have bin storage and presentation points which is welcomed. However, consideration should be given to providing suitable screened and secure bin storage to the front of terraced plots and any plot which has stepped rear access. On these plots rear access for the storage of bins is poor and convoluted which may discourage use. Formal provision of bin stores at the front of these dwellings would help to avoid the casual storage of bins at the front of houses in full view of the street, under windows and blocking driveways / footways. Swept paths for an 11.85m refuse collection vehicle are required. A condition is recommended requiring temporary waste collection arrangements if properties are to be occupied before the site construction is complete.
- 8.15 West Yorkshire Combined Authority (WYCA Metro) – Applicant's Transport Assessment over-emphasises site's walking and cycling catchments. Proposed layout does not appear to be well connected with the surrounding area and seems to have been designed to be self-contained. Proposed layout features potentially mean that private car journeys are likely to be the preferred method of travel. Due to its size, it is inevitable that parts of the site will have longer walk distances to access local bus stops and services than the recommended 400m distance. This would be improved by amending the site layout and incorporating more pedestrian access points to the surrounding residential areas. Bus stops 16701 and 15500 on Bradford Road should be upgraded to include a real time passenger information display, costing £20,000. Stop 15448 on Whitehall Road should be upgraded to include a real time information display, and a real time display enable pole should be provided at stop 15449, costing £20,000. Submitted Travel Plan is informative but lacks commitments to implement measures to encourage sustainable travel to ensure its targets are met. Sustainable travel fund of circa £145,000 appropriate. Digital connectivity and electric vehicle charging also required.
- 8.16 West Yorkshire Police Designing Out Crime Officer – No objection subject to conditions.

- 8.17 Yorkshire Water – Objection to the site layout as currently shown. Prior to determination, it must be made clear that the below-mentioned syphon sewer's stand-off distance is maintained, and that Yorkshire Water's statutory duties to inspect, maintain, adjust, repair and alter the pipe (under Section 159, Water Industry Act 1991) will be unhindered, prior to development. The submitted Landscape Masterplan P20-2441.001 revision H, dated 27/09/2021 still indicates numerous trees within close proximity to the recorded 800 mm diameter public combined syphon sewer to the southwest of the site. Although the "utilities easement" is indicated within the drawing, no distance is specified within the key. In addition, Yorkshire Water require the sewer to be surveyed to ensure its accurate position has been recorded.

## **9.0 MAIN ISSUES**

- Previous refusal of permission
- Principle of development
- Sustainability and climate change
- Quantum and density
- Housing mix
- Unit sizes
- Affordable housing
- Urban design issues
- Residential amenity and quality
- Important hedgerow
- Other tree, biodiversity and landscaping issues
- Highway issues
- Flood risk and drainage issues
- Environment and public health
- Coal mining legacy
- Representations
- Planning obligations
- Other planning matters

## **10.0 APPRAISAL**

### Previous refusal of permission

- 10.1 The application is a resubmission of previous application ref: 2019/93303 which related to a development of 267 dwellings and which was refused on 21/05/2021. The council's assessment and refusal of that application is a significant material consideration relevant to the council's assessment of the resubmitted application.
- 10.2 The previous proposal for 267 dwellings was refused on the basis of the housing mix, which was considered to be overly dominated by 4-bedroom detached dwellings. Permission was also refused due to concerns regarding the proposal to translocate the "important" hedgerow within the site, specifically because it had not been adequately demonstrated that this could be achieved without prejudicing its ability to survive.

- 10.3 Given the council's clear reasons for refusal, it is appropriate for this committee report to focus on the two main issues pertinent to the council's refusal – these matters are considered under the "Housing mix" and "Important hedgerow" headings below. This committee report also responds to the comments made by Members on 21/10/2021, and provides commentary relating to other information and amendments submitted by the applicant following the previous refusal of permission, and relating to other material considerations that have emerged in recent months, including the adoption of the council's Open Space SPD and Housebuilder Design Guide SPD in June 2021, the publication of the council's Planning Applications Climate Change Guidance and Biodiversity Net Gain Technical Advice Note in June 2021, the publication of an updated NPPF in July 2021, and the passing of the Environment Act in November 2021.
- 10.4 Relevant considerations on the ground (at the application site and its surroundings) have not significantly changed since April/May 2021. This further justifies a focus in this committee report on the two main issues pertinent to the council's refusal.
- 10.5 Notwithstanding the focus of this committee report, Members are free to consider any planning matters relevant to this application, however careful consideration must be given to the need for consistency in planning decisions, and the risks involved in raising concerns that were not deemed to be reasons for refusal earlier in 2021. Raising such concerns would not be unlawful (there is no planning legislation that requires planning decisions to adhere to earlier resolutions), however there is an expectation placed upon the council to act reasonably in the execution of its duties as the local planning authority. Reference can be made to the Government's guidance regarding the type of behaviour that may give rise to an award of costs against a local planning authority at appeal. The Government has stated (in Planning Practice Guidance paragraph: 049, reference ID: 16-049-20140306) that examples of unreasonable behaviour include not determining similar cases in a consistent manner.

#### Principle of development

- 10.6 As set out in the committee report for application ref: 2019/93303, the site is allocated for housing in the Local Plan (site allocation ref: HS96) and therefore the principle of residential development at the site is considered acceptable. The proposed 287 dwellings would make a significant contribution towards the supply of housing in Kirklees.
- 10.7 The housing land supply position in Kirklees has recently been updated to provide evidence for a forthcoming planning appeal against the refusal of planning permission. The council can currently demonstrate 5.17 years of deliverable housing land supply and therefore Kirklees continues to operate under a plan-led system.
- 10.8 The site is within a wider mineral safeguarding area relating 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 c of policy LP38 is relevant, and allows for approval of the proposed development, as there is an overriding need (in this case, housing and affordable housing need, having regard to Local Plan delivery targets) for it.

### Sustainability and climate change

- 10.9 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.
- 10.10 The application site is a sustainable location for residential development, as it is relatively accessible and is on the edge of an existing, established settlement that is served by public transport and other facilities. The surrounding area has food outlets, shops, two pubs, Hunsworth Park and Recreation Ground, Moorend Park and Cleckheaton Sports Club, such that at least some of the daily, social and community needs of residents of the proposed development can be met within the area surrounding the application site, and combined trips can be made, which further indicates that residential development at this site can be regarded as sustainable.
- 10.11 Regarding climate change, measures would be necessary to encourage the use of sustainable modes of transport. Adequate provision for cyclists (including cycle storage space), electric vehicle charging points, a Travel Plan and other measures have been proposed or would be secured by condition or planning obligations. A development at this site which was entirely reliant on residents travelling by private car is unlikely to be considered sustainable. Drainage and flood risk minimisation measures would need to account for climate change.
- 10.12 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.

### 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 land is efficiently and sustainably used (having regard to all relevant planning considerations) which will help ensure the borough's housing delivery targets are met. Under-use of scarce, allocated development land could potentially contribute towards development pressure elsewhere, at less appropriate sites, including at sites where sustainable development is harder to achieve.
- 10.14 The 287 dwellings proposed falls short of the 413-dwelling indicative capacity set out in site allocation HS96. 287 dwellings are approximately 69% of 413 dwellings. The under-delivery of dwellings at this site is a shortcoming of the proposed development that attracts negative weight in the balance of relevant planning considerations.

- 10.15 Notwithstanding the site's constraints and the policy requirements relevant to a 287-dwelling development (which, it is accepted, reduce the developable area), it remains the case that the applicant's decision to propose a significant proportion of larger detached houses is driving down the development's quantum and density, is limiting the efficient use of land, and may have adverse implications in relation to energy efficiency and affordability (as detached dwellings can be less energy efficient and more expensive to heat). In the current proposals, 204 (71%) of the 287 dwellings would be detached, and the remaining 83 would be terraced or semi-detached. 181 (63%) of the 287 dwellings would have four bedrooms. Using a site area of 11.8 hectares (to enable comparison with the indicative site capacity), the proposed 287 dwellings would achieve a density of only 24 dwellings per hectare.
- 10.16 Comparison with the following similarly sized recent schemes is appropriate:
- Owl Lane, Chidswell (ref: 2019/92787). 260-unit scheme, 100 dwellings (38%) are to be detached, 44 (17%) are to have four bedrooms, and a density of 33 dwellings per hectare is to be achieved. Approved.
  - Land east and west of Netherton Moor Road, Netherton (ref: 2019/93550). 250-unit scheme, 114 (46%) are to be detached, 53 (21%) are to have four bedrooms, and a density of 30 dwellings per hectare is to be achieved. Approved.
  - Bradley Villa Farm, Bradley (ref: 2021/92086). 270-unit scheme, 171 (63%) detached dwellings are proposed, 136 (50%) four-bedroom dwellings are proposed, and a density of 27 dwellings per hectare would be achieved. Pending decision (considered by Strategic Planning Committee on 29/07/2021, position statement raised concerns regarding unit sizes, quantum and density).
- 10.17 Compared with the previously refused scheme at the Merchant Fields site, the current proposal increases the quantum of development, albeit by a relatively modest 20 units.
- 10.18 Although the above assessment identifies concerns regarding the proposed development's quantum and density, there are other key considerations that must be taken into account.
- 10.19 Firstly, it is noted that the allocated site's indicative capacity is based on a site area of approximately 11.8 hectares and the 35 dwellings per hectare expectation of Local Plan policy LP7 and does not take into account site constraints and other considerations. As set out in the committee report for application ref: 2019/93303, it is considered that the site's topography, coal mining legacy and easements are material constraints on development at the site. These constraints will make it difficult to deliver the expected 413 units at this site.
- 10.20 Taking into account these constraints, it is appropriate to also consider what density would be achieved by the proposed development based on a smaller site area figure that reflects the part of the allocated site that is developable. Using the net developable area figure used at paragraph 10.13 of the committee report relating to application ref: 2019/93303 (8.84 hectares), the current proposal for 287 dwellings would achieve a density of 32 dwellings per hectare, which is closer to the 35 dwellings per hectare expectation of Local Plan policy LP7.



- 10.21 It should also be noted that, although under-use of an allocated site attracts negative weight in the balance of relevant planning considerations, the weight to be attached to that shortcoming is lessened by the limited or lesser impact that such a low quantum of development may have upon the local highway network and social infrastructure, when compared with the impact that a 413-dwelling scheme would have.
- 10.22 Finally, given that the previous, less dense proposal for this site was not refused on quantum grounds (of note, the council's refusal reason referred to the preponderance of 4-bedroom detached dwellings and the need to meet the needs of different household types, and did not refer to the overall number of units, the need to use land efficiently, or Local Plan policy LP7), given the applicant's attempts to increase quantum, and given that 287 new dwellings would undoubtedly make a welcome contribution towards the supply of housing in Kirklees, it is recommended that the proposed quantum and density be accepted.
- 10.23 The applicant's recent increase in the quantum of development has partly been achieved by extending the proposed built-up area closer to the south-eastern site boundary, and by adding three dwellings close to Nann Hall Beck (units 49, 50 and 51). These revisions bring new housing closer to the existing properties towards the south on Brookfield View, Brookfield Terrace and Brookfield Avenue, and also affects the amount of open space that would be provided on site. The proposed layout nevertheless retains a buffer to these existing houses and to Nan Hall Beck in the north-eastern part of the site. The reduction in the open space would be taken into account as part of the calculation for open space contributions.

#### Housing mix

- 10.24 As noted in the table at paragraph 5.1 above, since the previous application (ref: 2019/93303) was considered, the applicant has increased the proposed number of 2-bedroom dwellings by 10 and the number of 3-bedroom dwellings by 20. The number of 4-bedroom dwellings has been reduced by 10. The unit size mix and the relevant percentages are now:
- 1-bedroom – 0 units – 0%
  - 2-bedroom – 36 units – 13%
  - 3-bedroom – 70 units – 24%
  - 4-bedroom – 181 units – 63%
  - 5-bedroom – 0 units – 0%
- 10.25 Paragraph 3.5 of the Local Plan recognises that “If identified housing needs are to be met, houses of all sizes are needed together with an increasing number of bungalows and flats/apartments”, and policy LP11 requires all proposals for housing to contribute to creating mixed and balanced communities in line with the latest evidence of housing need. It goes on to state that all proposals for housing must aim to provide a mix (size and tenure) of housing suitable for different household types which reflect changes in household composition in Kirklees in the types of dwelling they provide, taking into account the latest evidence of the need for different types of housing. For major developments, the housing mix should reflect the proportions of households that require housing, achieving a mix of house size and tenure. The council's most recent published assessment of housing need is the Kirklees Strategic Housing Market Assessment (2016). This suggests that

across Kirklees, the greatest requirement within the private housing sector is for 3-bedroom houses, however there is also a significant requirement for 1-, 2- and 4-bedroom houses. There is some (albeit less of a) requirement for private flats and bungalows. Within the affordable housing sector, the greatest requirement is for 3-bedroom houses, and affordable flats are also required.

- 10.26 As noted at paragraph 10.15 above, the proposal still includes a high proportion of 4-bedroom and detached dwellings, however there is now a greater number of smaller-sized dwellings proposed, which would help to meet the needs of a broader range of people and their households. Given these improvements to the proposed unit size mix, it is considered that this part of the council's previous reason for refusal has been satisfactorily addressed, and it is not recommended that planning permission be refused again on these grounds.

#### Unit sizes

- 10.27 The size of the proposed dwellings is 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. Epidemic-related lockdowns in 2020/21 and increased working from home have further demonstrated the need for adequate living space.
- 10.28 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 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
- 10.29 On 20/10/2021 the applicant stated that all dwellings would be NDSS-compliant, and floorspace figures were provided on 01/12/201 verifying this.

#### Affordable housing

- 10.30 Local Plan policy LP11 requires 20% of units in market housing sites to be affordable. A 55% social or affordable rent / 45% intermediate tenure split would be required, although this can be flexible. Given the need to integrate affordable housing within developments, and to ensure dwellings of different tenures are not visually distinguishable from each other, affordable housing would need to be appropriately designed and pepper-potted around the proposed development.
- 10.31 20% of 287 dwellings is 57.4, therefore the 57 affordable dwellings proposed by the applicant is compliant with Local Plan policy LP11, as is the tenure split proposed by the applicant (31 affordable rent unit and 26 intermediate units).

10.32 All of the proposed affordable rent units would be of the 2-bedroom “Hadleigh” house type, and all of the proposed intermediate units would be of the 3-bedroom “Bamburgh” house type. As those two house types are also proposed within the development’s private (market) housing, as variations of those house types are proposed (some would be built of red brick, some of artificial stone, and a mix of affordable semi-detached and terraced dwellings are proposed), and as the proposals also include private semi-detached and terraced dwellings, it is considered that the development’s affordable housing element would not be visually distinguishable. The applicant has also confirmed the proposed locations of the affordable units – these would be sufficiently pepper-potted around the site.

#### Urban design issues

10.33 The proposed layout and most other aspects of proposed design have not significantly changed since the previous application (ref: 2019/93303) was considered, however the following changes are noted:

- Proposed built-up area extended closer to the south-eastern site boundary, and three dwellings added close to Nann Hall Beck (units 49, 50 and 51).
- The applicant has submitted missing and revised house type and electricity substation drawings and has confirmed that the Salcombe house type is no longer proposed.
- The applicant provided clarification regarding external materials and confirmed that buff brick is no longer proposed.
- Increased proportion of smaller dwellings (more terraced and semi-detached dwellings, and fewer detached dwellings, resulting in revised street scenes).
- Street trees added.

10.34 The minor changes to the proposed layout, and other design changes, are considered acceptable. The additional terraced and semi-detached dwellings, and reduced number of detached dwellings, would help vary the development’s street scenes, would add interest, and would help relieve some of the visual monotony of the previous proposal. The eleven proposed house types, and the proposed variations in their elevations and materials, would also bring interest and variety to the development’s street scenes. Subject to details of materials and boundary treatments, the proposed garages and two electricity substations are considered acceptable in design terms.

10.35 Regarding the grain of the proposed development, some of the recently added terraced and semi-detached dwellings are appropriately proposed adjacent to existing terraced properties on Kilroyd Avenue, which would help the proposed development reflect and respond to its context. All dwellings would have two-storeys, and no bungalows are proposed. Although bungalows would have been welcomed at this site (to reflect those of Kilroyd Drive and Mazebrook Crescent), there is no policy requirement for bungalows to be provided, and it is noted that the site’s context is not entirely defined by bungalows – Kilroyd Avenue and Links Avenue and streets to the southeast are dominated by two-storey dwellings. It is also noted that while relevant design guidance generally requires new development to respect its context, there is some allowance (at, for example, paragraph 59 of the National Design Guide) for larger new development to establish its own identity.

- 10.36 Regarding external materials, the applicant proposes red brick and red concrete roof tiles for approximately 170 of the 287 dwellings, and artificial stone and grey concrete roof tiles for the others. White UPVC windows, black painted front doors and garage doors, and black UPVC rainwater goods are also proposed. Subject to details and samples being provided at conditions stage, this palette of materials is considered acceptable for this site and its context.
- 10.37 The applicant was asked to review the proposed development in the context of the revised NPPF which was published in July 2021, and specifically paragraph 131 which states that planning decisions should ensure that new streets are tree-lined (unless, in specific cases, there are clear, justifiable and compelling reasons why this would be inappropriate).
- 10.38 The applicant submitted a revised landscaping layout which provides additional trees across the site. Furthermore, the applicant has advised that where trees are to be provided within front gardens, these areas would fall under the responsibility of a management company. For this arrangement to be workable, the management company would either need to take full control for a section of each garden, or adequate covenants would need to be written into sale contracts. Of note, a similar covenant-related arrangement (regarding responsibility for trees) has previously been accepted at a site in Linthwaite (application ref: 2021/91571). It is recommended that details of these arrangements be secured by condition.
- 10.39 As the application is a resubmission of a previously refused scheme, and as the requirement to provide tree-lined streets within the NPPF post-dates the original proposal, it is recognised that it will be difficult to integrate additional tree planting without a redesign of the road layout which was previously deemed acceptable. The applicant has, however, proposed trees at many of the key junctions and at the terminus of some of the cul-de-sacs, and groups of trees are proposed within areas of open space. Individual trees to the front of some plots would be provided as described above, and other plots would incorporate shrub planting to their frontages. However, if some of these shrubs were replaced with trees it would help to give the development a more tree-lined feel, and it is accordingly recommended that such additional tree planting be secured through the condition relating to landscaping. Subject to further increases in the number of trees provided to the front of dwellings (to be secured by condition), on balance it is considered that the development would accord with paragraph 131 of the NPPF in this instance.

#### Residential amenity and quality

- 10.40 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.
- 10.41 Compared with the previous application (ref: 2019/93303), the proposal brings development closer to Brookfield Avenue, Brookfield Terrace and Brookfield View which lie to the southeast of the site. However, these properties would be separated from the new dwellings by an undeveloped buffer and the separation distances would all exceed those recommended within the Housebuilders Design Guide SPD. The three dwellings added close to Nann Hall Beck (units 49, 50 and 51) are not close to existing residential properties.

The layout now proposed would not bring development any closer to existing dwellings to the west and north of the site on Links Avenue, Kilroyd Avenue and Mazebrook Crescent. In the case of properties on Kilroyd Avenue, separation distances have increased slightly in some instances. Examples of distances to be maintained around the edges of the site are set out below:

- Between side elevation of unit 242 and front elevation of 30 Links Avenue – 16m.
- Between rear elevation of unit 268 and main rear elevation of 45 Kilroyd Avenue – 24m (20m would be maintained to rear extension).
- Between rear elevation of unit 275 and main rear elevation of 27 Kilroyd Avenue – 22m (19m would be maintained to rear extension).
- Between rear elevations of unit 286 and 1 Kilroyd Avenue – 24m.
- Between side elevations of unit 1 and 31 Kilroyd Drive – 11m.
- Between side elevation of unit 45 and rear elevation of extension at 49 Mazebrook Crescent – 24m.
- Between side elevations of unit 152 and 17 Brookfield Terrace – 10m.

10.42 Overall, it is considered that the proposed layout provides acceptable separation distances to neighbouring dwellings.

10.43 Significant open space provision is required for the proposed development, including a Local Area for Play (LAP), a Local Equipped Area for Play (LEAP) and a contribution towards a Multi-Use Games Area (MUGA). With the 287 dwellings now proposed, an open space contribution of £741,116 towards off-site provision would normally be required, however some of the applicant's welcomed proposed on-site provision can be taken into account.

10.44 With reference to the open space typologies set out in the council's Open Space SPD, the applicant proposes the following on-site provision (as detailed on drawing 122-AP-02 rev A):

- Natural and Semi-natural Greenspace – 1.4 hectares
- Amenity Greenspace – 0.41 hectares
- Provision for Children and Young People – 0.39 hectares
- Parks and Recreation – 0.58 hectares
- Allotments and Community Food Growing – 0.14 hectares

10.45 Taking into account some of what is shown on the submitted drawings (including the good detail of the proposed "allotments and community food growing" area), this figure is reduced to £419,324. A further reduction would be possible if the applicant were to provide more acceptable detail of what would be provided in the areas to be offered under other typologies. For example, the "parks and recreation" area shown in the northeast part of the site could be accepted as such if the applicant were to propose more than the mown grass, three benches and two paths currently shown. Similarly, the "children and young people" area could be accepted as such with a greater level of investment and detail. For the avoidance of doubt, the trim trail proposed at the south end of the site is welcomed, however it does not amount to a LEAP.

- 10.46 In response to Members' comments made on 21/10/2021, a clear plan of the proposed on-site open space will be included in the committee presentation. Of note, should planning permission for the current proposal be granted and implemented, any subsequent proposal to build on the currently proposed open space would require a further planning application. Such an application is considered unlikely, given that the open space would occupy sloped land or would be provided above drainage attenuation.

#### Important hedgerow

- 10.47 As noted in the committee report for the previous application (ref: 2019/93303), a double hedgerow to the southwest of Merchant Fields Farm is classed as "important" under the Hedgerow Regulations 1997. That application was refused due to concerns regarding the proposal to translocate the important hedgerow within the site, specifically because it had not been adequately demonstrated that this could be achieved without prejudicing its ability to survive.
- 10.48 As under the previous application, the applicant proposes to translocate the hedgerow to the southeast edge of the site, adjacent to public footpath SPE/41/10. Here, it would be laid out as a single hedgerow set within an area of open space.
- 10.49 With the current application, the applicant submitted additional supporting information in relation to the translocation of the hedgerow. The submitted Hedgerow Translocation Method Statement has been prepared by a company who have previously carried out similar work (including the translocation of 550m of hedgerows for UK Coal Ltd in the East Midlands and North East). The statement details the technical aspects of translocating the important hedgerow and demonstrates the expertise of the company to complete this work.
- 10.50 Retention of the hedgerow in its current location would pose a very significant constraint to the site layout, particularly to the road network within the site which is already influenced by topographical constraints.
- 10.51 Officers have considered the applicant's information and assessed whether the proposed translocation is suitable and achievable, having regard to the need to preserve the hedgerow's value, and the relative disbenefits of retaining the hedgerow in its current location within a site allocated for residential development. Both KC Trees and KC Ecology are satisfied that the proposed translocation is a viable option for the hedgerow, and officers from those teams provided commentary on the matter at the Strategic Planning Committee meeting of 21/10/2021. The examples of hedgerows being translocated elsewhere in the country serve to provide further comfort that this is a viable solution.
- 10.52 Furthermore, it is considered that there is a benefit to moving the hedgerow and setting it within an area of open space. The hedge in its current location would not be as valuable within a developed site and the wildlife value that it currently provides within this open field system would be significantly reduced if it were to be incorporated into the built environment. Its translocation to the edge of the site adjacent to planted open space and a stretch of public footpath (approximately 330m long) provides potential benefits in terms of wildlife

(habitat) connectivity and foraging opportunities. A much longer wildlife corridor would be created, and the proposal would allow the current hedgerow material and associated species mix to form a new valuable landscape feature. Additionally, new hedgerow planting would be provided parallel to a section of the translocated hedgerow, which would create a new double hedgerow feature within the site.

- 10.53 It is relevant to note that the hedgerow is deemed “important” due to its species mix, rather than any association with historic features specific to the location where it is currently growing. On that basis, moving the hedgerow (including its species composition and basal soil with its associate seed bank) to an alternative location is considered to be a good option to ensure that it can continue to offer a high degree of wildlife and public amenity value.

#### Other tree, biodiversity and landscaping issues

- 10.54 Trees to the southwest of Merchant Fields Farm (along the line of the important hedgerow, and within the application site) are the subject of Tree Preservation Order (TPO) SP2/70/g10. Another tree to the northeast of the farm is the subject of TPO SP2/70/t4. Trees to the northeast (on the opposite bank of Nann Hall Beck) are also protected. Land to the east is within the green belt. The majority of the application site is within a Biodiversity Opportunity Zone (Pennine Foothills), bats are present in the area, and Nann Hall Beck and its banks form part of the Wildlife Habitat Network.
- 10.55 A net biodiversity gain needs to be demonstrated in accordance with Local Plan policy LP30 and chapter 15 of the NPPF.
- 10.56 The applicant’s Design and Access Statement confirms at page 24 that TPO-protected trees would be retained and would “have a strong presence within the centre of the site”. The proposed layout, however, shows the trees of TPO SP2/70/g10 at the rear of units 86 to 96. It is recommended that these trees be kept outside private curtilages, and that they be the responsibility of a residents’ management company.
- 10.57 As with the previous application (ref: 2019/93303), the proposal includes a scheme of biodiversity mitigation and enhancement measures including new hedgerow planting, new woodland planting and provision of wildflower rich grassland. Notwithstanding these measures, the development results in a net biodiversity loss on the site and to mitigate this and deliver an overall net gain to biodiversity, the applicant is required to provide a contribution towards off-site ecological enhancement. A contribution of circa £120,000 would be required – the precise amount would be determined by the detail of the on-site provisions, and further biodiversity metric calculations. The off-site contribution would fund ecological enhancement works that would be administered by the council and carried out at a location as close to the site as possible.

#### Highway issues

- 10.58 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.

- 10.59 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.
- 10.60 Existing highway conditions must be noted. The site lies approximately 1.2km to the north of Cleckheaton Town Centre and is located to the east of Hunsworth Lane (the B6121). Beyond an intervening strip of land, the application site has a frontage to Hunsworth Lane approximately 100m long, where the road runs downhill from north to south. Footways exist on both sides of the carriageway, the road is lit, a 30mph speed restriction applies, and there are central double white lines prohibiting overtaking. “SLOW” road markings exist on the carriageway. On-street parking is restricted by double yellow lines along part of the application site’s Hunsworth Lane frontage, however on-street parking is allowed (and occurs) further to the north. A signalled junction exists to the north where Hunsworth Lane meets Whitehall Road (the A58).
- 10.61 At the site’s northern edge, access to the dwellings at Merchant Fields Farm is provided via an unadopted track at the end of Kilroyd Drive which passes through the application site.
- 10.62 Public footpath SPE/41/10 runs alongside the southwestern site boundary, and public footpath SPE/44/30 runs through the northeast corner of the site and continues alongside the site’s south-eastern boundary.
- 10.63 The proposed layout retains the two separate points of vehicular access which were proposed under the previous application (ref: 2019/93303). The proposed internal layout is largely as per the previous application.

*Accessibility:*

- 10.64 The site is allocated for housing in the Local Plan. The principle of its suitability for residential development and the relative accessibility of the site was assessed as part of this process and was found to be acceptable.

*Access points:*

- 10.65 A new vehicular access point is proposed on Hunsworth Lane. A second vehicular access point would be formed at the south end of Kilroyd Drive where a private lane currently provides access to Merchant Fields Farm.
- 10.66 The new access from Hunsworth Lane would take the form of a priority junction with a right-turn lane, which is considered acceptable in principle and appropriate for the scale of development proposed. On 01/12/2021 the applicant submitted a drawing (LTP/3836/P2/01.01 rev A) of the proposed junction – this is the same drawing that had been submitted with the previous application (ref: 2019/93303), but which had not been submitted with the current application. This drawing shows a 43m long visibility splay to the north



of the proposed junction. It is recommended that further information be secured at conditions stage regarding visibility and horizontal and vertical alignment, together with a stage 1 RSA and Designer's Response. Subject to these issues being satisfactorily addressed, the proposed Hunsworth Lane access is considered acceptable. It is recommended that this access point be used during the construction phase, and that it be rendered usable by residents of the proposed development prior to a proportion of the dwellings becoming occupied.

*Traffic impact and network assessment:*

- 10.67 The scope of the applicant's Transport Assessment (TA) was agreed during pre-application discussions and is based on current guidance and industry standard methodology. Traffic surveys have been undertaken which identify the local network peak hours as 07:30 to 08:30 and 16:45 to 17:45. For assessment purposes the TA is based on a residential development comprising 310 dwellings. The current proposal is for 287 dwellings and therefore the TA provides a robust assessment.
- 10.68 Traffic growth has been based by the applicant on TEMPro growth rates with a future design year of 2025. The industry standard TRICS database has been used by the applicant to determine trip rates – for robustness the assessment uses 85% percentile trip rates based on AM and PM peak hours of 08:00 to 09:00 and 17:00 to 18:00 respectively, which have higher traffic levels than the actual local network AM and PM peak hours of 07:30 to 08:30 and 16:45 to 17:45 respectively.
- 10.69 In terms of traffic generation, for a 287-dwelling development this would equate to 211 and 218 two-way trips respectively in the AM and PM peak periods. The table below provides full details.

	85 <sup>th</sup> Percentile Vehicular Trip Rates			Traffic Generations for 287 dwellings		
	Arrivals	Departures	Two-Way	Arrivals	Departures	Two-Way
<b>08:00-09:00</b>	0.243	0.491	0.734	70	141	211
<b>17:00-18:00</b>	0.463	0.296	0.759	133	85	218

*Traffic distribution:*

- 10.70 Traffic has been distributed (in the TA) on the highway network using origin and destination data from the 2011 Census' method of travel to work data set. The methodology has been reviewed and is considered to be acceptable.

*Junction assessment:*

- 10.71 The following junctions have been assessed using a base year of 2020 and a future design year of 2025.

*Kilroyd Drive / A58 Whitehall Road (priority junction):*

- 10.72 Assessment indicates that the junction would operate within practical capacity in the future design year 2025 with base plus development traffic flows scenario, with no adverse queuing or capacity problems.

Hunsworth Lane / Proposed Site Access (priority junction):

- 10.73 Assessment indicates that the junction would operate within practical capacity in the future design year 2025 with base plus development traffic flows scenario, with no adverse queuing, capacity or vehicle delays.

A58 Whitehall Road / A651 Bradford Road (roundabout):

- 10.74 Assessment shows that in the 2025 base traffic (without development traffic) scenario, the A58 Whitehall Road East arm would operate beyond practical capacity in the AM and PM peak periods and the A651 Bradford Road South arm would operate beyond practical capacity in the AM peak period. The addition of development traffic (i.e. 2025 base plus development traffic scenario) would marginally worsen this situation, although in terms of rate of flow to capacity (RFC) values and queuing the addition of development traffic is considered to have a relatively minimal impact and would equate to an increase of approximately four queuing vehicles in the peak periods.
- 10.75 In the 2025 base plus development traffic scenario all arms except the A651 Bradford Road south arm would continue to operate within theoretical maximum capacity, and the Bradford Road south arm would operate marginally over maximum capacity in the AM peak period. The A651 Bradford Road North and A58 Whitehall Road West arms would continue to operate within practical capacity in all scenarios including the 2025 base plus development scenario.
- 10.76 It is considered that future network growth would be the main contributory factor towards certain arms of the roundabout operating over capacity and that the impact of development traffic would in relative terms be minimal.

A58 Whitehall Road / Hunsworth Lane (signalised junction):

- 10.77 This junction has been modelled by the applicant using LinSig modelling software, which has been reviewed by the council's Urban Traffic Control team.
- 10.78 Signalisation of this junction was undertaken in around 1999 and was introduced as an accident remediation scheme – the junction was effectively at capacity when commissioned, and this is still currently the case, with some arms of the junction operating at or slightly over capacity, with significant queues observed on Hunsworth Lane and the A58 Whitehall Road westbound during peak periods. During inter-peak periods the junction operates satisfactorily with spare capacity on all arms.
- 10.79 As the applicant has resubmitted the TA (ref: 10972/001/01, 11/09/2019) that was submitted with the previous application (ref: 2019/93303), it still includes suggestions of measures at this junction (intended to improve the operation of the junction), namely the introduction of a staggered pedestrian crossing on the Hunsworth Lane north arm of the junction and the removal of the pedestrian crossing facility on the A58 Whitehall Road west arm. As set out in the committee report for the previous application and the position statement for the current application, these are not supported by officers as they would be detrimental to pedestrian safety and movement. The suggested measures would provide some additional capacity at the junction, however by 2025 this

additional capacity is predicted to be exhausted, and for a marginal short-term betterment the measures are not considered worthwhile. These measures are only suggested in the applicant's TA, and do not affect land within the application site red line boundary, however for the avoidance of doubt an informative is recommended, confirming that the contentious suggested measures are not approved.

- 10.80 It is considered that there are no reasonable and meaningful physical mitigation measures that can be implemented at the Whitehall Road / Hunsworth Lane junction, within the constraints of the adopted highway. Highways officers have, however, noted that the existing signalling equipment at that junction is nearing the end of its serviceable life and is due for replacement within the next few years. In lieu of the mitigation measures suggested in the applicant's TA, it is considered that a contribution towards the replacement of signalling equipment at this junction (costing £50,000) would be appropriate. This would be secured via the recommended Section 106 agreement.

*A638 Bradford Road / Hunsworth Lane / Whitechapel Road (signalised junction):*

- 10.81 The junction has been modelled by the applicant using LinSig modelling software. Results show that in the 2025 with development scenario the signals would operate over capacity in the AM and PM peak periods. To mitigate this impact a contribution towards the installation of Bluetooth journey time monitoring equipment at the junction and its approaches is considered appropriate. The level of contribution proposed, to be secured via the recommended Section 106 Agreement, is £15,000.

*Chain Bar Roundabout (M62 Junction 26):*

- 10.82 In addition to the aforementioned junctions, under the previous application National Highways (when still Highways England) requested that, as part of the Strategic Road Network, Chain Bar roundabout (M62 Junction 26) should also be assessed to determine the impact of development traffic on the roundabout. The junction was assessed by the applicant using a LinSig model provided by National Highways. Following review of this assessment National Highways confirmed during the life of the previous application that subject to conditions they offer no objection to the proposal. A similar comment has been submitted by National Highways in respect of the current application.

*Internal layout, servicing and refuse:*

- 10.83 The internal layout of the proposed development is expected to be built to adoptable standards, as set out in the Kirklees Highway Design Guide SPD and Highways Guidance Note – Section 38 Agreements for Highway Adoptions March 2019 (version 1) and associated documents.
- 10.84 The proposed internal layout is very similar to that previously submitted and is generally considered acceptable. The council's Section 38 team have been consulted on the proposed development, and while their forthcoming detailed comments may result in minor layout changes, it is not considered necessary to delay determination of the current application while any such matters are being resolved.

- 10.85 Local residents have expressed concerns that the development may create a desirable cut-through for traffic travelling west on the A58 Whitehall Road West wishing to turn left at the Whitehall Road / Hunsworth Lane junction, thus avoiding the signals. This has been assessed, and it is accepted that use of the proposed development as a cut-through route would be undesirable, however it is considered that due to the length, alignment and nature of the route through the proposed development, this is unlikely to prove a popular or well-used cut-through. Should through-traffic prove to be an issue in the future a police-enforced “no motor vehicles except for access” Traffic Regulation Order (TRO) could be implemented.

*Road safety:*

- 10.86 The applicant’s review of personal injury accidents over a five-year period shows that in the agreed accident study area, which includes Chain Bar Roundabout (M62 Junction 26), there have been 14 incidents. 10 incidents were classified as slight, with four being classified as serious and no fatal incidents recorded. Of the four serious incidents, all of which occurred at different locations, three involved a motorcycle, which is perhaps more of a reflection on the lack of protection and vulnerability of motorcycle riders in collision situations. The fourth serious incident involved a single vehicle and was a loss of control incident with the vehicle leaving the road on a bend and hitting a lamp post, with a probable causation factor noted as travelling too fast. Of the remaining 10 slight incidents, there were no significant incident clusters, with probable contributory factors being recorded as failure to look properly, travelling too fast, poor turn manoeuvre and sudden braking, all of which can be classified generally as driver error and not as a result of any inherent highway design issue.
- 10.87 It is considered that there are no significant accident clusters or trends in terms of either type or location that would warrant further investigation or mitigation and that the proposed development is unlikely to materially worsen the current situation in terms of road safety.

*Sustainable travel:*

- 10.88 In response to the council’s consultation on the current application, the West Yorkshire Combined Authority (WYCA) have recommended that bus stops 16701 and 15500 on Bradford Road should be upgraded to include a real time passenger information display. The cost of this provision would be £20,000. WYCA have also commented that bus stop 15448 on Whitehall Road should be upgraded to include a real time information display, and that a “real time display enable pole” should be provided at stop 15449. The cost of this provision would be £20,000.
- 10.89 These recommendations differ to those made by WYCA in respect of the previous application (ref: 2019/93303), where it was recommended that bus stop number 15469 (Hunsworth Lane / Links Avenue) be upgraded to provide a real time information display, costing £10,000. As relevant site circumstances have not materially changed since that previous application was considered, and as the additional 20 dwellings would not significantly increase local public transport use (beyond that associated with the previously proposed 267 dwellings), it is recommended that relevant Section 106 Heads of Terms reflect the earlier advice from WYCA.

- 10.90 WYCA have advised that, to encourage the use of sustainable transport as a realistic alternative to the car, a sustainable travel fund should be secured, for use by residents of the proposed development to support the cost of sustainable travel such as an MCard or other incentives to use active travel such as cycle vouchers. For the purposes of establishing a cost, WYCA have advised that the MCard scheme for this site based on a bus-only ticket would be in the region of £145,000.
- 10.91 The proposed development includes good connections to public footpaths to the south and east, and the footways of the proposed estate road would connect to those of Hunsworth Lane. Further improvements to neighbourhood pedestrian connectivity could be provided via short footpaths between Links Avenue and the three adjacent cul-de-sacs proposed by the applicant, and between Mazebrook Avenue and the hammerhead adjacent to unit 46. An appropriate condition is recommended.
- 10.92 The applicant has submitted a draft Travel Plan, setting out proposed measures intended to influence the change in travel behaviour towards more sustainable methods of travel using a mixture of increased transportation opportunity, providing information, persuasion and incentive. A Section 106 planning obligation is necessary to ensure an acceptable final Travel Plan is submitted and implemented. A Travel Plan monitoring fee of £15,000 would also be necessary.

*Conclusion regarding highway issues:*

- 10.93 The proposal is for 287 dwellings and the submitted Transport Assessment (which relates to a 310-unit development) represents a robust assessment of the traffic impact of the proposed development. It is considered that the development would not have an unacceptable impact on highway safety, nor would the development's traffic have a severe impact on the operation of the local highway network. Off-site highway improvements are nevertheless considered necessary to help to mitigate the impact of the development, and appropriate Section 106 Heads of Terms are recommended. Conditions relevant to highway matters are also recommended.
- 10.94 Subject to satisfactorily addressing any issues raised by the council's Section 38 team regarding layout, and the submission of a Stage 1 RSA and Designer's Response covering the internal layout and any external highway works, the proposals are considered acceptable from a highway perspective.

Flood risk and drainage issues

- 10.95 Local Plan policies LP24, LP27 and LP28 are relevant to flood risk and drainage, as is chapter 14 of the NPPF.
- 10.96 Drainage attenuation tanks are proposed beneath the open spaces close to the southwestern edge and northeast corner of the site. From these, surface water would discharge to Nann Hall Beck to the east, and to Hunsworth Beck / the River Spen via an existing Yorkshire Water overflow drain under Hunsworth Lane. Foul water would discharge to existing sewers beneath the site and Hunsworth Lane.

- 10.97 The application site is in Flood Zone 1 and therefore is subject to the lowest risk of flooding. However, flood risk affects adjacent land and property, including in relation to Nann Hall Beck.
- 10.98 During the life of the application, the applicant submitted an amended (Rev D) Flood Risk Assessment (FRA) relating to the earlier 284-dwelling proposal. As this relates to a layout almost identical to the 287-dwelling proposal currently under consideration, it is not necessary for the applicant to submit a further update to the FRA.
- 10.99 In comments dated 29/11/2021, the Lead Local Flood Authority (LLFA) confirmed they had no objection to the proposed development, subject to conditions and to management and maintenance being secured via a Section 106 agreement.
- 10.100 In comments dated 21/10/2021 Yorkshire Water repeated an objection to the proposed site layout due to its impact upon existing public sewerage infrastructure in the southwest part of the site. On 01/12/2021 the applicant advised that the design team had been working off an easement for the wrong pipe, and that a solution was being worked on. Yorkshire Water will be consulted again once the relevant amended drawings are submitted.

#### Environmental and public health

- 10.101 Regarding air quality, the condition referred to by KC Environmental Health (requiring a revised Air Quality Assessment) is recommended, and it is noted that a financial contribution towards air quality mitigation will be required.
- 10.102 Regarding site contamination, four conditions are recommended, securing a revised Phase 2 report (including ground gas data), remediation details, implementation of remediation, and validation.
- 10.103 Regarding noise, the condition referred to by KC Environmental Health (securing a revised Noise Impact Assessment) is recommended.
- 10.104 The detailed comments of KC Public Health regarding affordable housing, physical activity, diet, inclusion and social cohesion, environmental quality, active travel, crime and safety, and access to social infrastructure have been relayed to the applicant team.

#### Coal mining legacy

- 10.105 Four coal mining features have been identified as posing a potential constraint to the development.
- 10.106 Three mine shafts have been located within the eastern part of the site and the applicant is proposing to remediate these and accommodate them within an area of open space. This is acceptable to the Coal Authority.
- 10.107 A fourth mine shaft was identified within the vicinity of the proposed new access off Hunsworth Lane. Previously, the Coal Authority was satisfied that this feature could be adequately addressed through a suitable planning condition requiring further investigation and remediation as may be necessary. However, the Coal Authority commented on the current application and advised that, since their previous comments were issued, it has come to their

attention that it may not be possible for the applicant to undertake a full search for this mine shaft. This is because such investigations may necessitate accessing third party land outside of the site boundary. As such, the Coal Authority has requested that the applicant provide clarification and additional information on this shaft before the application is determined.

- 10.108 The applicant has submitted an additional plan indicating the location of this fourth mine shaft and has proposed a no-build zone around it. The shaft is identified as lying within an area of the site that is proposed to be soft landscaped. As noted at paragraph 8.4 of this committee report, the Coal Authority is satisfied with the applicant's further information, and has no objection to the application, subject to conditions being applied.

#### Representations

- 10.109 To date, a total of 105 representations have been received in response to the council's consultation. The comments raised have been addressed in this report.

#### Planning obligations

- 10.110 To mitigate the impacts of the proposed development, the following planning obligations would need to be secured via a Section 106 agreement:

- 1) Affordable housing – 57 affordable dwellings (31 affordable rent, 26 intermediate) to be provided in perpetuity.
- 2) Open space – Off-site contribution of £419,324 to address shortfalls in specific open space typologies (with potential for significant reduction subject to the detailed design of the on-site provision, particularly with respect to the “parks and recreation” and “children and young people” open space typologies).
- 3) On-site open space inspection fee – £1,000.
- 4) Education – £1,159,213 contribution to be spent on upon priority admission area schools within the geographical vicinity of the site (vicinity to be determined).
- 5) Off-site highway works – £65,000 contribution (£50,000 towards new signal equipment at Whitehall Road / Hunsworth Lane junction, and £15,000 towards Bluetooth journey time monitoring equipment at Bradford Road / Hunsworth Lane / Whitechapel Road junction).
- 6) Sustainable transport – Measures to encourage the use of sustainable modes of transport, including a £145,000 contribution towards sustainable travel measures, implementation of a Travel Plan, £15,000 towards Travel Plan monitoring, and a £10,000 contribution towards bus stop improvements.
- 7) Air quality mitigation – Contribution of circa £162,000.
- 8) Biodiversity – Contribution of circa £120,000 towards off-site measures to achieve biodiversity net gain.
- 9) Management and maintenance – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker).

- 10.111 The applicant submitted a financial viability appraisal (FVA) with the current application. This concluded that the 284-dwelling scheme was unable to viably deliver any level of on-site affordable housing in addition to the required Section 106 off-site payments. The applicant's FVA was, however,

independently assessed on behalf of the council by CP Viability (report dated 21/09/2021), who did not agree that there was a viability issue with the proposed development, and who considered that the scheme can provide policy-compliant Section 106 contributions and affordable housing, whilst delivering an acceptable developer profit. On 18/11/2021 the applicant withdrew the FVA.

- 10.112 The provision of training and apprenticeships is strongly encouraged by Local Plan policy LP9, and as the proposed development meets the relevant threshold (housing developments which would deliver 60 dwellings or more), officers will contact the applicant to discuss provision of a training or apprenticeship programme to improve skills and education. Such agreements are currently not being secured through Section 106 agreements – instead, officers are working proactively with applicants to ensure training and apprenticeships are provided.

#### Other planning matters

- 10.113 Regarding the social infrastructure currently provided and available in the area surrounding the application site (which is relevant to the sustainability of the proposed development), it is noted that local medical provision has been raised as a concern in representations made by local residents. Although health impacts are a material consideration relevant to planning, there is no policy or supplementary planning guidance that requires a proposed development to contribute specifically to local health services. Furthermore, it is noted that funding for GP provision is based on the number of patients registered at a particular practice and is also weighted based on levels of deprivation and aging population. Direct funding is provided by the NHS for GP practices and health centres based on an increase in registrations. Local education needs are addressed earlier in this report in relation to planning obligations.
- 10.114 The proposed development's impact upon property values is not a material planning consideration.
- 10.115 A condition removing permitted development rights from some of the proposed dwellings is recommended. This is considered necessary for the dwellings proposed with smaller gardens, as extensions under permitted development allowances here could reduce the private outdoor amenity spaces to an unacceptable degree. Permitted development extensions could also affect longer views of the site from public vantagepoints.

### **11.0 CONCLUSION**

- 11.1 The application site is allocated for residential development under site allocation HS96, and the principle of residential development at this site is considered acceptable.
- 11.2 The applicant has satisfactorily addressed the previous application's reasons for refusal. An improvement unit size mix is now proposed, and further information has been submitted regarding the proposed translocation of the site's important hedgerow.



- 11.3 The site has constraints in the form of adjacent residential development (and the amenities of these properties), topography, drainage, ecological considerations, and other matters relevant to planning. These constraints have been sufficiently addressed by the applicant, or would be addressed at conditions stage.
- 11.4 Given the above assessment and having particular regard to the 287 homes that would be delivered by the proposed development, approval of full planning permission is recommended, subject to conditions and planning obligations to be secured via a Section 106 agreement.
- 11.5 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. The proposed development has been assessed against relevant policies in the development plan and other material considerations. Subject to conditions, it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) 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. 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, including a requirement to engage with local residents, details of any phasing, use of Hunsworth Lane for construction access, measures to address National Highways' request for a construction phase traffic management plan, and measures to minimise biodiversity impacts.
4. Submission of details of temporary drainage measures.
5. Submission of details of temporary waste collection and storage (should development be phased, and/or dwellings become occupied prior to completion of the development).
6. Provision of site entrance and visibility splays prior to works commencing.
7. Submission of full details of Hunsworth Lane site entrance.
8. Submission of details relating to internal adoptable roads.
9. Submission of details of highway structures.
10. Submission of details of additional pedestrian connections to adjacent streets.
11. Cycle parking provision to be provided within the site.
12. Provision of Electric Vehicle charging points (one charging point per dwelling with dedicated parking).
13. Submission of a revised Air Quality Impact Assessment.
14. Provision of waste storage and collection.
15. Submission of full drainage details, including measures to control discharge from the site to a maximum of 17.5l/s to Nann Hall Beck and 3.5l/s to Yorkshire Water owned infrastructure leading to the River Spen.
16. Submission of details of the management of residual risk of blockage scenarios after constructing swales/ditches.
17. Restriction on planting and structures over Yorkshire Water easements.

18. Submission of an Intrusive Site Investigation Report (revised Phase II Report).
19. Submission of Remediation Strategy.
20. Implementation of Remediation Strategy.
21. Submission of Validation Report.
22. Coal legacy remediation works – implementation.
23. Coal legacy remediation works – validation.
24. Submission of a revised Air Quality Assessment.
25. Submission of a revised Noise Impact Assessment, and subsequently agreed measures to be implemented.
26. Submission of details of crime prevention measures.
27. Submission of details of electricity substations.
28. Submission of details and samples of external materials.
29. Submission of details of boundary treatments.
30. Submission of details of external lighting.
31. Submission of full details of open space and playspace.
32. Submission of full landscaping details, including details of tree planting, and details of arrangements for street tree retention.
33. Submission of an arboricultural method statement.
34. Implementation in accordance with Hedgerow Translocation Method Statement.
35. Biodiversity enhancement and net gain details, and management plan.
36. Submission and implementation of an Ecological Design Strategy.
37. Removal of permitted development rights.

### **Background Papers:**

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f92801>

Certificate of Ownership – Certificate B signed.

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

Date: 16-Dec-2021

**Subject: Planning Application 2021/93674 Partial redevelopment of Greenhead college including demolition and making good, erection of 2 and 4 storey buildings, reconfiguration of parking and access arrangements, reconfiguration of sports provision and other associated external works (Within a Conservation Area) Greenhead College, Greenhead Road, Huddersfield, HD1 4ES**

#### APPLICANT

Galliford Try Building Ltd.

#### DATE VALID

22-Sep-2021

#### TARGET DATE

22-Dec-2021

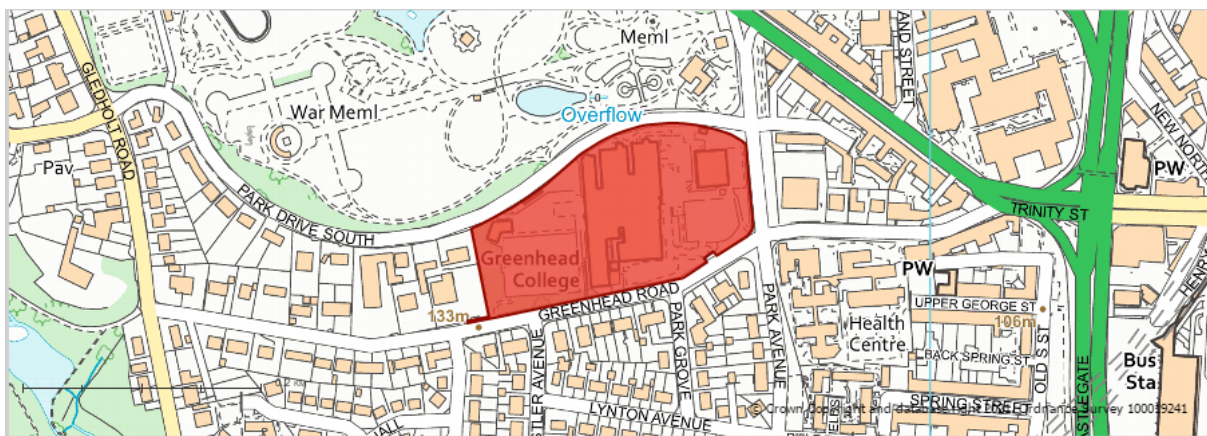
#### EXTENSION EXPIRY DATE

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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

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**Electoral wards affected:** Greenhead

**Ward Councillors consulted:** Yes

**Public or private:** Public

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## **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 This application seeks full planning permission for the following works at Greenhead College:

- Demolition of the Laingspan blocks (a method of construction) and the remainder of the Science Block, and the making good of retained facades that would be newly exposed;
- Demolition of the existing changing pavilion and reconfiguration of the sports provision;
- The building of a new 4 storey building and a new 2 storey courtyard infill building;
- Relocated car parking and revised site access arrangements;
- Site wide landscaping associated with the above.

1.2 The application is brought to the Strategic Planning Committee, in accordance with the Delegation Agreement, because the site falls within land allocated as Urban Green Space. It therefore represents a departure from the development plan. It also has a site area over 0.5ha.

### **2.0 SITE AND SURROUNDINGS**

2.1 Greenhead College is approximately 300m west of the Huddersfield Town Centre ring road. It is within a predominantly residential area, with dwellings to the south and west and commercial properties to the east. To the immediate north is Greenhead Park, which is a Grade II Listed Park and Garden that hosts several listed buildings. Greenhead College is also within the Greenhead and New North Road Conservation Area and adjacent to the Springwood Conservation Area.

2.2 Greenhead College is a sixth form education facility with grounds covering circa 2.5ha. The campus hosts a central agglomeration of buildings, which form the primary teaching block, with several satellite buildings. Car parking is located around the site but is focused to the east of the main building. To the campus' west is a large all-weather pitch (synthetic surface).

2.3 The site has a substantial stone boundary wall in all directions. The primary access for vehicles and pedestrians is via Greenhead Road (to the site's south), with a secondary access via Park Road South (to the site's north). Park Avenue, which is tree-lined, runs along the site's eastern boundary and currently has no access points into the school.

2.4 The number of students attending the college is 2,600. Current staff levels are 185 full time equivalent (FTE) staff (currently 90 full time and 130 part time).

### **3.0 PROPOSAL**

3.1 The proposed demolition works cover 3,923sqm. This includes the removal of the existing central link extension, which is of 'laingspan' construction, and the remainder of the science block. Where buildings to be demolished connect to buildings to be retained, repair works would make good the exposed outer walling.

3.2 The new works would result in a net increase of 2,266sqm of floor space for the college. The number of students attending the college would remain unchanged at 2,600 students. Current staff levels of 185 full time equivalent (FTE) staff (currently 90 full time and 130 part time) would also remain unchanged. Through the proposed changes, the existing provision of 157 parking spaces would be retained.

3.3 Two new structures, hereafter referred to as the 'new block' and 'courtyard infill', are described as follows:

#### *New block*

3.4 This building would be constructed over the site's existing main east car park. It would have a total floor area of 5,294sqm over four floors. It would provide the following facilities:

- 24 specialist classrooms and laboratory spaces;
- A suite of admin accommodation and ancillary spaces;
- Open space to host a main hall, dining space and associated serveries;
- Study space and;
- Student social space.

3.5 The building would have a roughly rectangular footprint. A cantilevered feature would be above the main entrance. Windows would be provided on each elevation, with glazing to cover a large surface area. It would be faced in a buff brick (specified as Forterra Carsington Cream). The roof, to host plant and plant screening, would be flat with a parapet 1.8m in height. The building would incorporate a green roof and solar panels. Window would be set in 0.2m from the façade to provide a minimal reveal.

3.6 The area around the new build, which is currently used for car parking, would receive re-grading works and be pedestrianised. The current vehicle exit (one way) onto Greenhead Road would be converted into a pedestrian only route.

### *Courtyard infill*

- 3.7 This building would be sited in the location of the former 'laingspan' central link extension. It would likewise act as a connection to agglomerate the college's several buildings. It would be predominantly single storey, with an element of first floor accommodation, totalling 895sqm of floor space.
- 3.8 As well as being connecting / circulation space, it would host a large dining / social area, with associated servery, and fitness studio with changing facilities.
- 3.9 The courtyard infill would also be faced in buff brick (specified as Forterra Carsington Cream), with a parapeted flat roof. This building does not have a green roof.

### *Other works*

- 3.10 Due to the new block being sited over the primary car park, most of the car parking would be moved to the west of the site. The existing all-weather pitch (AWP) and sport pavilion would be cleared / demolished to make way for a 125-space car park arrayed in an 'L' shape. An existing closed access onto Greenhead Road would be re-aligned and widened to give access to the new car park.
- 3.11 A replacement smaller AWP would be formed adjacent to the new car park. It would be floodlit. It is proposed to be used by both the college and community use, with the following hours of use sought:
- Monday to Friday: 0830 – 2100;
  - Weekends: 0900 – 1800.
- 3.12 A new vehicle access is proposed onto Park Avenue (road to the east). This would provide service / emergency vehicle access to the east of the site and access to 9 parking spaces. Three council owned street trees would require felling to facilitate this access.
- 3.13 The site currently has a one-way system for vehicle movements. As noted above the 'exit' would be converted into a pedestrian access. The current entrance point (from Greenhead Road) would be widened to facilitate two-way movements and would provide access to 23 parking spaces.
- 3.14 Sheffield loops for up to 36 bikes are proposed across the site (30 are already present on site and would remain, for a total of 66 post development). Weldmetal fencing, 1.8m in height, would be strategically placed between each of the site's building to create a 'private' internal controlled zone within the centre of the site for security purposes.
- 3.15 Seventeen individual trees and sections of three tree groups are earmarked for removal to facilitate the proposed development. To compensate, a site wide landscaping strategy has been provided. This includes the planting of 14 extra heavy standard trees, around a new outdoor 'breakout space' to the site's north, and 2,560 whips spread around the site's vegetated boundary along with shrub planting. The 'breakout space' would have a circular surfaced area, with landscaping around it.

- 3.16 An additional substation is required to support the development. This is to be sited north of the Rostron building, adjacent to the site's existing substations. It would be a basic and functional service structure, faced in metal cladding, with a 3.8sqm footprint and ridge height of 2.8m.

#### **4.0 RELEVANT PLANNING HISTORY (including enforcement history)**

##### Application Site

2006/95249: Construction of synthetic grass pitch, porous macadam sports area for basketball, netball and tennis, access ramps vehicular access, 4m high fence, floodlights erection of single storey changing and storage accommodation and associated engineering works – Conditional Full Permission

**Note:** The netball / tennis courts were cleared from site between 2011 – 2016. The synthetic grass pitch remains.

2011/91422: Demolition of existing single storey lean-to and erection of single storey extension (within a Conservation Area)

2011/92096: Part demolition of boundary wall, erection of 2 storey classroom building and associated landscaping, and entrance gates (Within a Conservation Area) – Conditional Full Permission

2011/93106: Single storey extension to existing common room, to form improved student social area and entrance – Conditional Full Permission

2012/90238: Recladding of science block and replacement windows (within a Conservation Area) – Conditional Full Permission

2012/90519: Erection of second floor extension to existing classroom building (Within a Conservation Area) – Conditional Full Permission

2012/90523: Erection of single storey extension (within a Conservation Area) – Conditional Full Permission

2013/93550: Erection of four storey teaching block and demolition of an unlisted building in a conservation area – Conditional Full Permission

2015/93763: Erection of a two-storey building (within a Conservation Area) – Conditional Full Permission

#### **5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme)**

- 5.1 The application sought initial pre-application advise in October 2020 (ref. 2020/20421). The demolition was as proposed, but the proposal initially sought a new single building sited adjacent to the north-east boundary. Officers expressed concerns over the scale, mass, and form of the development and how it would impact upon the historic environment (being notably close to Greenhead Park).

5.2 The applicant considered officer feed-back and returned for a second pre-application enquiry in February 2021 (re. 2021/20084). This subsequent pre-application closely resembled the current proposal. The building had been relocated to the current position, to reduce the impact upon the historic environment in line with officer comments, and the car park was relocated and a replacement all weather pitch proposed. The pre-application was presented to the Strategic Planning Committee on the 31<sup>st</sup> of March 2021 to gain the committee's initial assessment of the proposal. Members comments are summarised as:

- A broad welcoming of the proposal and the perceived improvements to the college's education offer.
- Concerns that the design was too unitarian, lacking interest and ambition. It was deemed unambitious alongside the high-quality architecture elsewhere on the site.
- On-site public art should be retained.
- Members raise concerns over highways. They iterated comments that there is an existing on-street parking issue attributed to the college during teaching times. Queries about whether a dedicated bus services could be provided to serve the college.

5.3 This application was received in September 2021. The submission is supported by various supporting documents and plans. The layout remains as per the last pre-application that came before Members. In terms of the design, the mass and shape of the new block is predominantly the same; however, detailing has been added to attempt to address the Committees' comments. The applicant has re-visited the design and added architectural interest where feasible. This includes, but is not limited to, the introduction of louvres, an external reveal to the windows, feature ashlar stone. For public art, this related to a statue affixed to the wall of the lainspain link building: this was moved to the Rostron building several years ago and would be unaffected by this proposal. On the matter of highways, the application is supported by a transport statement. The applicant has commented that the development, while increasing floorspace, would not increase the number of students / staff and the existing level of on-site parking is to be retained. Nonetheless, a travel plan has been provided to look at ways to promote non car methods of travel for both staff and students.

5.4 Negotiations have taken place between the applicant, planning officers and their consultants. These principally related to seeking clarifications to submitted details and/or minor amendments to secure enhancements to the proposal. These include requesting more justification for the proposed material and amending the proposal to retain an additional tree on site. Discussions were also facilitated between the applicant and K.C. Forestry, relating to the loss of Council owned trees. The applicant worked positively with planning officers and submitted the requested information. On receipt of the requested details, officers confirmed they were supportive of the proposal.

## **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<sup>th</sup> February 2019).



6.2 The application site is allocated as Urban Green Space (UGS) within the Local Plan (site allocation ref UG103).

6.3 Relevant Local Plan policies are:

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP3** – Location of new development
- **LP9** – Supporting skilled and flexible communities and workforce
- **LP20** – Sustainable travel
- **LP21** – Highway safety and access
- **LP22** – Parking
- **LP23** – Core walking and cycle network
- **LP24** – Design
- **LP27** – Flood risk
- **LP28** – Drainage
- **LP30** – Biodiversity and geodiversity
- **LP32** – Landscape
- **LP33** – Trees
- **LP35** – Historic environment
- **LP38** – Minerals safeguarding
- **LP47** – Healthy, active and safe styles
- **LP49** – Educational and health care needs
- **LP50** – Sports and physical activities
- **LP51** – Protection and improvement of local air quality
- **LP52** – Protection and improvement of environmental quality
- **LP53** – Contaminated and unstable land
- **LP61** – Urban Green Space

6.4 The following are relevant Supplementary Planning Documents or other guidance documents published by, or with, Kirklees Council;

*Supplementary Planning Documents*

- Highways Design Guide SPD (2019)

*Guidance documents*

- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Waste Management Design Guide for New Developments (2020)

National Planning Guidance

6.5 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) 2021, published 20<sup>th</sup> July 2021, and 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 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

6.6 Other relevant national guidance and documents:

- MHCLG: National Design Guide (2021)

#### Climate change

6.7 The Council approved Climate Emergency measures at its meeting of full Council on the 16<sup>th</sup> of January 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.

6.8 On the 12<sup>th</sup> of 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 would use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

## **7.0 PUBLIC/LOCAL RESPONSE**

### *The applicant's statement of community involvement*

7.1 The application is supported by a statement of community involvement (SCI). It outlines how the applicant engaged in pre-application discussions with the LPA. Following this, the applicant approached local ward members and those in neighbouring Newsome ward (due to the boundary line proximity).

7.2 For pre-application public engagement, the applicant outlines that due to the COVID-19 outbreak, it has not been possible to hold a public drop-in event to engage in person with the community and stakeholders. A 'virtual engagement' has instead been undertaken prior to the application submission, which

included: a flyer drop; a weblink to a website (via the College's webpage) housing a downloadable engagement document providing more information on the scheme; and a postal / email address for any queries. Flyers were sent to local residents in a sizable area and identified stakeholders.

7.3 In total the applicant received 4 responses from The Garden Trust, The Civic Society, a Greenhead Ward Councillor and a member of the public. The applicant has summarised the comments as follows:

- Suggestion that residents on Grasmere Road should receive flyers due to the student parking on this street (this was done);
- Comments about the potential to generate energy on the flat roofs at the site and for the inclusion of PV, and the provision of EV parking;
- Comments around the inclusion of cycle and eBike storage;
- Request for a landscape plan and comments regarding improving green infrastructure on the site to improve the wildlife and the link with the historic green space at Greenhead Park;
- Comments on the provision of an Arboricultural Statement and consideration of trees;
- Comments on building form / relationship to existing buildings;
- Consideration to be given to the setting of and views from Greenhead Park;
- Comments on the proposed materials and preference expressed for use of stone;
- Clarification sought that there would be no opening to the new car park from Park Drive South.

7.4 The applicant has considered each of these points in their planning statement. Their responses are to be considered where relevant within this assessment.

#### *Statutory public consultation*

7.5 The application has been advertised as a major development via site notices and through neighbour letters to properties bordering the site, along with being advertised within a local newspaper. This is in line with the Council's adopted Statement of Community Involvement.

7.6 The public representation period expired on the 12<sup>th</sup> of November 2021. Amendments to the proposal during the application process were minor in scale and did not warrant re-advertisement.

7.7 One public representation has been received. It was sent by the Huddersfield Civic Society. The following is a summary of the comments made:

- The improvement of facilities at Greenhead College is welcomed. The design does not impinge upon views from Greenhead Park.
- The level of tree loss is disappointing; however, it is appreciated as a necessity to maintain current level of off-road parking, with parking being an acknowledged issue of the site. However, no carbon impact assessment has been made for the loss of vegetation and trees
- The proposed 16 electric vehicle charging points is too low for 160 parking spaces. 30 cycle spaces for 2600 pupils and 185 staff is also low, despite this site being well placed for cyclists.

- Insufficient information has been provided to demonstrate an ecological net gain or needs to be clearer. The Ecological Impact Assessment fails to fully assess the impact of tree loss.

7.8 The site is within Greenhead Ward. Local ward councillors were notified of the application. No comments were received.

## **8.0 CONSULTATION RESPONSES**

### **8.1 Statutory**

Historic England: No objection, with advisory comments offered.

K.C. Highways Development Management (HDM): No objection subject to appropriate conditions being imposed.

Sport England: No objection subject to a condition relating to community use.

The Coal Authority: No objection subject to condition.

The Yorkshire Garden Trust: No objection, with advisory comments offered.

Yorkshire Water: No objection subject to condition.

### **8.2 Non-statutory**

K.C. Conservation and Design: Expressed initial concerns over materials and provided advice on detailing. Following justification being provided by the applicant to justify the materials along with elaboration on the design detailing, C+D confirmed no objection subject to conditions.

K.C. Crime Prevention: Were involved in discussions with the applicant and the district Counter Terrorism Security Advisor (CTSA). Based on the information provided by the applicant and within the submission, they offer no objection to the proposal.

K.C. Ecology: No objection subject to condition.

K.C. Environmental Health: Are satisfied that the information provided with the application is acceptable in principle and the application may be supported, subject to condition. Some concerns / requests for clarification have been expressed against parts of the technical details submitted with the proposal, but it has been agreed that this may be addressed via conditions.

K.C. Landscape: Initially expressed concerns over the loss of trees upon Park Avenue and queried the design purpose behind the circular area of hard surfacing. Provided advice and feedback on landscaping matters, including noting some proposed plant species are invasive and concerns regarding the level of tarmac surfacing. Notwithstanding their advice, they have no fundamental objections subject to condition.

K.C. Lead Local Flood Authority: Expressed initial concerns regarding the surface water drainage arrangement. The LLFA worked with the applicant and these matters have been resolved. As such, the LLFA offer no objection subject to conditions.

K.C. Planning Policy: Provided advise on the proposal's impact upon the Urban Green Space. While it is acknowledged that the proposal represents a departure from the Local Plan (Policy LP63), based on the information provided Planning Policy are satisfied that the benefits of the proposal outweigh the minimal harm caused.

K.C. Trees: Offered advice through the application process. Queried elements of the tree loss within the site which were later amended to be retained. They note that the tree-loss of Park Avenue is to be mitigated. No objection subject to condition.

## **9.0 MAIN ISSUES**

- Principle of development
- Urban design
- Residential amenity
- Highway
- Drainage
- Planning obligations
- Other matters
- Representations

## **10.0 APPRAISAL**

### Principle of development

- 10.1 Paragraph 47 of the National Planning Policy Framework (the Framework), which is a material consideration in planning decisions, confirms that planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. This approach is confirmed within Policy LP1 of the Kirklees Local Plan, which states that when considering development proposals, the Council would take a positive approach that reflects the presumption in favour of sustainable development contained within the Framework. Policy LP1 also clarifies that proposals that accord with the policies in the Kirklees Local Plan would be approved without delay unless material considerations indicate otherwise.

### *Education development*

- 10.2 National Planning Policy Framework recognises the importance of ensuring that there is a sufficient choice of school places available to meet the needs of existing and new communities, and that councils should give great weight to the need to create, expand or alter schools; (paragraph 95) and work with school promoters to identify and resolve key planning issues before applications are submitted (paragraph 96).

10.3 The relevant Local Plan Policy for education facilities is LP49. It outlines the following:

*Proposals for new or enhanced education facilities would be permitted where:*

- a. they would meet an identified deficiency in provision;*
- b. the scale, range, quality and accessibility of education facilities are improved;*
- c. they are well related to the catchment they are intended to serve to minimise the need to travel or they can be made accessible by walking, cycling and public transport.*

10.4 Consideration is first given to LP49(a and b). The applicant has provided a comprehensive statement on the need for the development. The key points are summarised below:

- The Department of Education has selected the site within its 'school rebuilding programme', which seeks to carry out major rebuilding / refurbishment of schools (and sixth forms) where needed, prioritised by urgency. This site falls within the first 50.
- Greenhead College has been prioritised as it has 'laingspan' building parts. Laingspan is a type of system buildings used to construct schools in the post-war period, which are reaching the end of their design life. They have potential structural weaknesses that mean they should not be retained. They are system-built, framed concrete buildings. They were a cost-effective form of construction in response to the requirement for an intense post-war school building programme. Issues relating to the structural design of the buildings were identified during the 1970s and since then, Local Education Authorities have been gradually replacing their building stock with alternative systems.
- The non-Laingspan element of the science has also been identified for removal as a consequential part of the project. The parts of the College to be replaced are therefore the Science Block (EFAF) and part of block EFAE accommodating the dining, kitchen, hall and social spaces. The development also provides the opportunity for shortfalls in existing accommodation to be addressed.

10.5 The benefits of the scheme to the College's learning and teaching offer are also an important planning consideration in this context. These are summarised as:

- Provision of a coherent college campus, integrated with the existing blocks and minimising travel distances between lessons;
- Creation of positive, usable external spaces for external teaching, independent study and social interaction;
- Location of the social and study spaces adjacent to the historic building creating an impressive learning environment;

- Creation of a simple structure, servicing and elevational approach that allows flexible teaching spaces to be easily adapted over time;
- The inclusion of large format spaces grouped centrally to allow for large scale events both during the college day and out of college hours;
- The provision of a centrally located dining and social space in the heart of the site linking the existing buildings and creating a flexible open area;
- Avoidance of the need for temporary teaching provision during the construction process (other than temporary changing provision in lieu of the demolished pavilion),

10.6 The LPA has consulted K.C. Children’s Services. They have provided a corroborating statement on the current situation at Greenhead College, with the salient points being as follows:

- The potential need to rebuild the ageing science block at Greenhead College was first identified as a risk within the Learning and Early Support Service in early 2019.
- Greenhead has an above national average achievement rate (particularly in the sciences) and plays an important role in district wide education provision, with a focus on the delivery of quality level 3 A-level provision, especially in the core academic ‘A’ levels. This high performance is not due to the higher starting point of the learners, as the progress scores of the institution (the progress learners make from their starting point) is amongst the highest in the country at 0.2, compared with a national average of 0.0. Coupled with their outstanding grading from Ofsted, these measures point to an institution that achieves exceptional results across all metrics.
- Greenhead’s successful bid for capital funds as part of the first tranche of the DfE ‘Schools Rebuilding Project’ represents an opportunity to match excellent outcomes with exceptional facilities, as well as addressing a future risk to post-16 STEM education and related economic goals within Kirklees. Should the bid not be successful, there would be a significant risk to future post-16 science education in Kirklees.

10.7 Turning to LP49(c), this is considered within the Highways assessment of this report (please see paragraphs 10.72 – 10.85). In summary, there are no highway-based concerns (subject to condition), and the proposal is not deemed to conflict with LP49(c).

10.8 Taking all these matters into account, the proposal is therefore considered to comply with the requirements of LP49. Based on the submitted information and validation from K.C. Education, the LPA recognises the need for the re-development of the site. The proposal would meet an identified deficiency in provision, and would result in the scale, range, quality and accessibility of education facilities being improved. In accordance with national policy, this should be given great weight in the planning balance.

*Land allocation (Urban Green Space) and sports provision*

- 10.9 The site falls within Urban Green Space. Therefore, Policy LP61 must be considered. The policy reads:

*‘Development proposals which would result in the loss of urban green space (as identified on the Policies Map) would 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.”*

Consideration is first given to whether the proposal results in a ‘loss of urban green space’.

- 10.10 The replacement college buildings are proposed on the footprint of existing college facilities / classroom buildings and the new 4 storey building on the area of the existing tarmacked car park. As such, both these elements of the proposed development would not result in the loss of green space within the college site. However, the new car park is proposed to be developed on the existing all-weather pitch (AWP) and this may be considered a loss of urban green space.
- 10.11 Consideration is first given to LP61(a). The pitch is recorded within the Kirklees Playing Pitch Strategy, with a site recommendation of ‘protect – well used pitched, protect for college use’. Therefore, recent assessment clearly demonstrates the site is still required to meet local needs. Consequently, the application would not comply with LP61(a). For completeness, LP61(a) would also require consideration on whether the pitch makes ‘*an important contribution in terms of visual amenity, landscape or biodiversity value*’. The visual impact of the pitch is limited, being surrounded by substantial boundary walls and vegetation, limiting its prominence within the area. Conversely, the area is defined by its openness and spacing between sizable buildings, and the site does contribute to this. The ecological value of the pitch, which is a synthetic surface, is, however, limited.
- 10.12 Policy LP61(b) is considered below. For LP61(c), the building of a car park, notwithstanding the replacement pitch, would not be considered an ‘*an alternative open space, sport or recreation*’ use. Accordingly, the proposal is deemed to not comply with LP61(c) either.



- 10.13 Policy LP61 (b) allows for the development of Urban Green Space where replacement sport facilities, which are equivalent or better in size and quality, are provided elsewhere within an easily accessible location for existing and potential new users. The lost AWP is proposed to be replaced by a smaller AWP, relocated to the north-east of the existing pitch. However, the proposed replacement AWP is not equivalent or better in size and would therefore not meet Local Plan LP61(b).
- 10.14 LP61(b) also requires consideration of the replacement's quality, not just size, and whether it is *within an easily accessible location for existing and potential new users*.
- 10.15 Limited consideration has been given to seeking alternative provision elsewhere. The existing open space serves the specific function of an on-site pitch for Greenhead College. The College already has separate sports pitch facilities at Highfields Road: additional off-site sports facilities would be redundant. Being immediately adjacent, the new pitch is considered an 'easily accessible location'.
- 10.16 Importantly, the existing pitch is oversized (i.e. above the Sport England's guidance size) at 60m x 47m. The new pitch would be 60m x 40m, which is the standard quality size from Sport England's guidance and Greenhead College has confirmed it is adequate for their on-site curriculum and needs. A 60m x 40m pitch would support 3no. full size netball courts and 4no. tennis courts as well as hockey and football. This can be over marked with other sports as required. Therefore, while reduced in size to that existing, the pitch would not be 'substandard' in quality and would comply with the relevant standards.
- 10.17 The proposal would also deliver further elements of improvement to drainage and lighting. For drainage, the existing pitch simply has ground soakaway i.e. water hitting the pitch simply soaks away over time. In heavier rain, this can lead to waterlogging the pitch. The proposed pitch is proposed to have a positive drainage system, allowing for 'all-weather use'. In terms of lighting, generally there has been notable progression in sports lighting technology in the last 15 years, allowing for more energy efficient and targeted lighting compared to that presently on site. The proposed changing facilities are an enhancement likewise. The existing 4 changing rooms are non-compliant with Sport England standards. The proposal includes new changing facilities (within the courtyard infill).
- 10.18 Another improvement would be the community element. The existing pitch is limited to 'no commercial use' (i.e. students only), with the following hours of use secured via planning condition:
- Monday to Saturday: 0900 to 1800;
  - No use on Sundays or Bank Holidays.

The applicant is proposing that the new replacement pitch be open to community use, and have requested the following hours of use:

- Monday to Friday: 0830 – 2100
- Weekends: 0900 – 1800

- 10.19 Sport England are a statutory consultee for this application and have responded to the proposal. Their remit is the protection and enhancement of playing pitches. Having reviewed the proposal, they acknowledge the reduction in pitch size. The playing field area reduces by over 50%<sup>1</sup> between the existing and proposed layouts, and as a result the proposal cannot meet Sport England's quantitative test of playing field policy exception 4. Such a scenario would normally result in a statutory objection from Sport England, but there are instances where a proposal can demonstrate an overall gain for sport which outweighs playing field policy. The applicant has been in talks with Sport England to address this, with Sport England offering the following assessment:

*The applicant is proposing to offer the proposed AGP [new AWP] for community use along with the off-site playing pitches at Highfields Road. The current AGP was permitted with an hours of use condition which effectively precluded community use of the facility. Advances in floodlighting technology which significantly reduce light spill and an acoustic fence enclosing the sides of the AGP which face outwards mean that the AGP is proposed to have hours of use for evenings and weekends which are conducive to community use. Sport England engaged with England Hockey as part of its consideration of the proposal. It advised;*

*Whilst the AGP is not big enough for Hockey match play we are aware that the College has a link with Huddersfield Dragons HC. We would like to see community use of this site for Hockey Heroes/Junior sessions to encourage greater numbers engaged in the sport across Huddersfield. We understand that the College plays its Hockey at Lockwood Park and has enquired about Storthes Hall when it is resurfaced in the near future.*

*A Gen2 surface would accommodate a number of sports use and recreational use by students. We would expect to see the facility open until 9pm Mon-Fri and 6pm Sat-Sun to allow for sessions to take place and for the site to maximise use from the surrounding community.*

*With regard to the off-site grass pitches at Highfields Road, the site contains two adult football pitches and one rugby league pitch. The Kirklees Playing Pitch Strategy highlights shortfalls across football and rugby league pitch capacity and so making these pitches available for community use would be a significant addition to pitch supply in Huddersfield.*

- 10.20 Based on the above, Sport England offer no objection to the proposal subject to a condition for a community use agreement, which would off-set the harm caused through the reduced size, and the applicant's offered hours of use being secured via condition. This is acceptable to planning officers and is recommended. Conversely, K.C. Environmental Health have objected to the proposed hours of use. They do not object to the principle of a pitch in this location given that a larger all-weather pitch (AWP), closer to neighbouring properties, is already on site.

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<sup>1</sup> Sport England are including the area of netball / tennis courts, which were cleared from site between 2011 – 2016.

10.21 It is relevant to acknowledge that the hours of use sought are materially different to the existing pitch and community use is also requested. While the public benefits of community use are acknowledged, these must be weighed against potential harm. The site is within a residential area, where the proposed community use and later hours of use could cause a degree of harm regardless of mitigation measures. K.C. Environmental Health therefore request the following hours of use be imposed via condition:

- Monday – Friday 0830 to 2030
- Weekends – 0900 to 1300

This is to prevent undue noise pollution and other amenity harm, through general disruption, by giving a reasonable period of no activity on the pitch. Planning officers support these hours of use. While more restrictive than initially desired by the applicant, they ensure, along with the mitigation measures, that the longer use of the pitch by both the college and community groups would not harm the amenity of neighbouring residents.

10.22 Other matters pertaining to environmental health and amenity (including other aspects of the pitch) are considered within paragraphs 10.68 – 10.70 of this report. Environmental Health has also raised some technical points seeking clarification or further information on the methodology behind the report; however, these can be addressed via condition: they do not present any prohibitive reason against the proposed AWP.

10.23 These more restrictive hours of use have been discussed with Sport England. They have stated that they are 'greatly disappointed' by the reduced hours of use, with the weekend afternoon restriction being a 'significant loss'. Despite this, Sport England has confirmed that they do not wish to object to the proposal (or utilise their 'call in powers', to force a decision by the Secretary of State).

10.24 Officers acknowledge Sport England's concern. However, the LPA are required to weigh all material planning considerations. It is maintained that the applicant's originally sought hours of use would materially prejudice the amenity of neighbouring residents through noise pollution and general disruption. It is reasonable for residents to have 'rest periods' when the pitch is not in use. Furthermore, the proposal would still represent a marked improvement in community use, on an evening and weekend morning. Accordingly, the LPA are satisfied that the application, with the outlined conditions, would still demonstrate an increase in playability and sporting capacity compared to the existing use of the pitch.

10.25 In summary, the proposal seeks development of Urban Green Space, which would result in the loss of Urban Green Space. The current pitch is oversized, with the application proposing a smaller pitch due to needing to accommodate the parking displaced by the proposed main block. However, the proposal would secure both physical and social improvements to the remaining pitch, which is still of a size that is accords with Sport England guidance. In addition, the development would deliver educational improvements to which significant weight must be attributed. Therefore, on the planning balance, the positives of the proposed development are deemed to outweigh the slight loss of Urban Green Space.

## *Sustainable development and climate change*

- 10.26 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. The Framework confirms at Paragraph 152 that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure. At Paragraph 154, the NPPF confirms that new development should be planned for in ways that: a) avoid increased vulnerability to the range of impacts arising from climate change and help to reduce greenhouse gas emissions.
- 10.27 It is acknowledged that the demolition of the existing structures and the construction of new buildings has a footprint in terms of CO<sub>2</sub> emissions. In response the applicant has submitted a dedicated Energy & Sustainability Statement, and offered the following statement:

*A key part of the DfE's brief is to deliver a development that would achieve net zero carbon in operation (NZCiO). The main new building has therefore been designed to deliver an efficient form factor and effective mass which would support the NZCiO requirements. This includes meeting minimum building fabric standards in excess of building regulations to optimise the thermal envelope including the elimination of cold bridging, high levels of airtightness and insulation, controlling solar gain and utilising thermal mass to minimise heating demand and the risk of overheating in warmer months.*

*The proposed roof material is a sedum / green roof and photovoltaic panels would also be included, helping to address the DfE's sustainability brief and NZCiO requirement. This requires the roof to be of a flat roof construction rather than pitched. Wind catchers would be utilised to provide assisted natural ventilation to the larger spaces.*

- 10.28 The document goes into notable detail about how the approach to sustainability for the proposed development has been considered, with the following energy hierarchy offered:

- 'Be Lean' - Energy demand would be reduced by achieving a well-insulated envelope which is both airtight and thermal bridge free. High performance glazing provides a positive energy balance whilst mixed mode ventilation maintains good air quality with minimal heat loss.
- 'Be Clean' - Energy efficient building systems such as LED lighting and low-power fans and pumps would drive down regulated energy use. Robust quality control, commissioning and handover procedures on site would further drive down energy use. Combined heat & power was considered however this has been discounted due to a poor base load and a desire to avoid onsite combustion of fossil fuels. Connection to a district heating scheme was also considered however there are no suitable existing networks to connect into. The use of a

lower temperature air source heat pump system throughout the building via multiple distribution systems (UFH, radiators and heating coils) would help to ensure an element of futureproofing for the development.

- 'Be Green' - The remaining energy demand would be met through low and zero carbon energy sources. The development's heating, cooling and hot water needs would be met through efficient air-source heat pumps, and a PV array would be provided on the roof of the main building.

10.29 The combination of the above measures results in a 53.3% reduction in sitewide regulated CO2 emissions compared to the Building Regulations minimum and 29% reduction of the energy demand from on-site renewable sources. It is evident that the applicant has given sufficient consideration to the impact of the proposal on climate change. The measures outlined are welcomed and are to be secured via condition.

*Principle of development – Conclusion*

10.30 The site is Urban Green Space, which the proposal would result in the partial loss of. The proposal therefore represents a departure from Policy LP63 of the Local Plan. Planning permission decisions must be taken in accordance with the development plan, unless there are material considerations that indicate otherwise. In this case the harm of this loss is minimal and the public benefits of the proposal, to local sport and education, are deemed to clearly outweigh the harm caused. Furthermore, adequate consideration of, and mitigation for, climate change has been evidenced. Therefore, the principle of development is deemed to be acceptable. Consideration must be given to the local impact, outlined below.

Urban design and heritage impact (including demolition)

10.31 The principal relevant design policy is LP24 of the Local Plan. This policy seeks for development to harmonise and respect the surrounding environment, with LP24(a) stating; 'Proposals should promote good design by ensuring: the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape'. This reflects guidance contained in Chapter 12 of the National Planning Policy Framework.

10.32 Consideration must also be given to the historic environment. The site is within the Greenhead Park / New North Road Conservation Area and is adjacent to the Springwood Conservation Area. There are also several listed buildings to the north, east, and west of the site, and Greenhead Park is a Registered Park: all are Grade II listed. Sections 66 and 72 of the Planning (Listed Buildings & Conservation Areas) Act 1990 introduce a general duty in respect of listed buildings and conservation areas respectively. S66 requires the decision maker to 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. S72 requires the decision maker to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Additionally, LP35 and NPPF Chapter 16 outline the principle of development and restrictions for development in the historic environment. Chapter 16 requires great weight to be given to the conservation of designated heritage assets where a proposed development has impact of on the significance of the heritage asset (paragraph 199).

- 10.33 Furthermore, the NPPF confirms 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. Paragraph 202 of the Framework states that where a development proposal would 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 including, where appropriate, securing its optimum viable use.
- 10.34 These policies requires consideration of a heritage asset's specific heritage value. The Greenhead Park / New North Road Conservation Area does not have an area appraisal; however, its heritage value is deemed to be its tree-lined streets and the spacious Victorian setting of the dwellings adjacent to a public park, hosting various high-quality buildings from this era.
- 10.35 The listed buildings each have their own heritage value, but overall can be surmised as their architectural appearance and features, along with their contribution to the setting. These aspects will be considered in the following assessment, where relevant.
- 10.36 Greenhead College's main building is not listed. However, it is an important building that contributes to the value of the Conservation Area. As such it is considered to be a non-designated heritage asset by virtue of its architectural form and setting.

#### *Demolition*

- 10.37 Regarding the proposed demolition of specific buildings on site, officers do not oppose the demolition of these modern, 20<sup>th</sup> century buildings. Each is well contained within the site, limiting their impact upon the setting of any of the nearby listed buildings. Furthermore, being modern structures, none formed part of the historic setting of the buildings.
- 10.38 The northernmost building, hosting the science block, is large in scale with a gable end which is at odds with the character of this area and does not contribute to the Conservation Area. Likewise, the existing laingspan link section does not contribute to the Conservation Area (or setting of the listed buildings / park), and its removal is not opposed. The removal of these buildings and the installation of sensitive landscaping of the northern part of the site would enhance the setting of the park and is welcomed.
- 10.39 It is acknowledged that the removal of the laingspan link would expose part of the original Greenhead College building's side wall. A method statement should be provided to show how the exposed external walls of the old school building would be cleaned, repaired and pointed following demolition. It is recommended that this be secured via condition.

#### *New block*

- 10.40 The siting of the building was discussed at length through the pre-application process. Initially the applicant sought for the new block to be sited north of the current proposal (approximately over the now proposed circular outdoor area).

This led to concerns from officers because of the proximity to Greenhead Park, and the prominence of the building to this heritage asset. An alternative location was considered to the west of the site, over the sport pitch, however this land has a higher topography that would result in a building with a likewise unduly prominent and dominant appearance. This was also expected to remove all playing pitch provision from the site. Through these discussions, the current layout evolved. Officers are therefore satisfied that the proposed location is the most suitable within the site, with the least harm to the historic environment.

- 10.41 The scale and massing of the building was also discussed at length during the pre-application. The proposed new block would be a sizable building within its setting. The overall scale is defined by the quantum of accommodation required by the college and funded by the DfE: officers accept that the massing has been kept to the operational minimal, giving due regard to these considerations. As a result of these restrictions and efficiency, the building would have four storeys and has been designed with a rectangular footprint and elevations. The massing of the building would be minimised by the location being the lowest part of the site. Furthermore, through cutting the ground floor into the site, it would present only three storeys to the west. Due to the scale of the building and requirement for sustainable features, such as green roofs and solar PV panels, a flat roof is proposed, set behind a simple parapet wall. This, too, would aid in keeping the height and massing down.
- 10.42 At the Strategic Planning meeting held 31<sup>st</sup> of March 2021, Members expressed reservations over the then-proposed unitarian design, citing that it lacked interest and ambition. While the mass and shape of the building has not changed, the applicant has undertaken a design review on the architectural features. Reference has been broadly taken from the historic Greenhead Hall, a large villa that once occupied the site and had pitched roofs set behind a parapet wall with a decorative balustrade and pronounced string course. Extensive areas of fenestration, architectural detailing and a recessed glazed entrance add interest and contribute towards reducing the mass of the building. Likewise, Greenhead Hall and the former school building have been broadly used as a reference for fenestration design of the new building, with repetition and uniformity along the elevations. Louvres and panels give the openings a somewhat vertical emphasis while providing the required environmental conditions for the building. The ratio of glazing to solid surface is welcomed, providing a well-mannered and open façade with extensive areas of glazing also adding visual interest.
- 10.43 The impact of the proposed building on the setting of the former school has been minimised as far as possible by siting it towards the north of the car park on land which drops away to the east, with a three-storey elevation facing the school building and the roof level only slightly higher than the ridge line of the school. The recessed glazed atrium softens the dominance of the building in context with the former school building, providing views of the old school façade and adding a focal point. Nonetheless, it is accepted that the proposed building dominates this part of the site and would partially obscure the façade of the former school building, particularly when viewed from Park Avenue to the east. Although there is a direct impact on the setting of the school building, this location has the lowest impact on the designated park and on balance it is the least harmful option for a building which is necessary to provide a high-quality, efficient and effective education facility.

- 10.44 The proposed materials for the external walls would be cream-coloured hand-made bricks with cast stone copings and sills, a 140mm coursed dressed natural stone band below the parapet and recessed ashlar stone panels on the north and south elevations. The Design and Access Statement states that the material palette has been selected to respect the predominant tones, textures and colours of the local stone and slate.
- 10.45 Officers expressed an initial preference for natural stone to be used, as the predominant material in the area. In response, the applicant gave the following statement:

*Working with the wider design team we explored options to switch to a stone façade before finalising the scheme for submission. The final scheme incorporated additional detail and stone elements as outlined within the submitted proposals, particularly the Design and Access Statement, however it was not feasible to provide a greater extent of stone due to the financial constraints associated with the project. Funding need is assessed by the DfE during feasibility stage and robust cost plans developed that follow a funding formular and process that is adopted nationally. In the case of Greenhead College additional funding was provided (within the limits of the wider building programme) due to the historic nature of the site - this has been used to fund the enhancement of the pallet and detailing over a standard school build as indicated in the submitted scheme. The overall scheme funding is fixed to deliver the quantum of accommodation briefed by the DfE to a rigorous technical specification, all within the constraints of the site.*

*In reviewing the cost and programme implications of switching from this to a full Yorkshire stone façade it was advised that a further significant cost uplift in the region of £500,000 - £550,000 would be incurred. To put this into context this is the equivalent of having to remove circa 230sqm of floor area which, for example, would equate to 2 science labs and a classroom or 4 classrooms. Whilst such a reallocation of funding would not be permitted under the DfE funding terms, it should be noted that the operational implications of such a transfer- from critical space requirements to the façade treatment - would have resulted in operational impacts on the college due to loss of space. The college already operates with very high utilisation of spaces throughout the campus – this would fundamentally impact the delivery of teaching and learning and could result in a reduction of the curriculum offer. Unlike commercial developments there is no ability to offset such an uplift against anticipated profit or leverage debt such as in the Higher Education sector. Ultimately this meant the introduction of stone was unaffordable and could jeopardise the viability of the scheme.*

- 10.46 The use of brick as the primary facing material, if not appropriately detailed, may not sit comfortably alongside the natural stone that is prominent within the area and the adjacent main Greenhead building. However, the use of a suitable buff brick, with a colour matching stone, would assist the scope for the building to harmonise with the existing built environment. The supporting documents state that the proposed material 'Forterra Carsington Cream' has been selected to complement the tones and hues of the former school building and the materiality and character of Greenhead Park Conservation Area. It states:



*A material palette has been selected that is respectful of the predominant tones and colours of the local stone and slate typically found on the historic buildings in the surrounding conservation area, and the rich variation and texture found within that stone; using a brick that pays homage to these tones and textures but does not seek to replicate them in a modern building, ensuring that the proposal is read as a clearly contemporary intervention.*

- 10.47 Brick is not the only material proposed. Ashlar stone and art-stone would be used as features on the building. Their complementary use is welcomed and helps ground the proposed building into the surrounding environment. Notably the ashlar stone is located by the entrance, creating an attractive and detailed focal point for the whole site.
- 10.48 On balance, weighing the constraints faced by the applicant and the public benefits of the proposal, the use of a sufficiently high-quality buff brick is not opposed. As noted, a specific material has been proposed; 'Forterra Carsington Cream'. Nonetheless, officers have not inspected samples to be wholly satisfied with this material. It is therefore proposed to attach a condition requesting samples of all materials to be submitted prior to any works commencing on site. These would need to be viewed on site in the context of the Conservation Area and adjacent building and this would provide an appropriate mechanism to control and inform the materials to be used.
- 10.49 Overall, the design has had to balance financial and on-site constraints versus delivering the much-needed required facilities. Its location, size and appearance have been justified through the application. Officers are satisfied that the building is visually attractive and would serve its intended function well. The impact upon the Conservation Area is considered, as a whole, further below.

#### *Courtyard infill*

- 10.50 The construction of the replacement courtyard infill building is not of concern as this replaces an existing building of a similar scale. Its design is not unattractive and achieves the difficult job of connecting several buildings, each with their own appearances, without appearing either dominant or incongruous. It is situated within the centre of the site, with larger buildings effectively screening it from outside of the site. As a result, the impact on the character of the historic environment, consisting of both the Conservation Area and Listed Buildings, is negligible.
- 10.51 In terms of materials, it would be faced in the same buff brick as the new block. For the reasons given above, this is not opposed.

#### *Other works*

- 10.52 The change to the site's west, consisting of removing the existing pitch and replacing it with a smaller pitch and car park, raise no design or heritage concerns. This area is set behind a high boundary wall facing the park and would therefore have no impact on its setting, with a neutral impact on the character of the Conservation Area. The changes to the accesses onto Greenhead Road are minor in nature and would have minimal impact.

### *Summary of heritage impacts*

- 10.53 Chapter 12 of the NPPF requires consideration of the level of harm a proposal may cause to a heritage asset. S72 of the Planning (Listed Buildings & Conservation Areas) Act 1990 requires due consideration be given to the character and appearance of a Conservation Area. S66 requires the decision maker to have special regard to the desirability of preserving a listed building and its setting, or any features of special architectural or historic interest which it possesses
- 10.54 The proposed development is considered to have a neutral impact upon the nearby listed buildings. None of their fabric would be affected and the site is removed and isolated away from the listed buildings so as to not cause material harm to their setting. Similarly, while adjacent to the Springwood Conservation Area being outside of its boundary and set in another context prevents harm being caused.
- 10.55 The proposal, through the four-storey new block, would introduce a substantial modern intervention into the New North Road / Greenhead Park Conservation Area. Whilst screened, it would inevitably be visible from several vistas from within the Conservation Area, although these would notably be limited from the important vistas within Greenhead Park to the north. While the design is acceptable and the massing appropriate for the site, it is concluded that the new building would cause harm to the setting of the Conservation Area. The loss of the trees along Park Avenue would detract from the setting of the Conservation Area. However this harm would not be substantial to the overall value of the Conservation Area. Other tree-loss within the site would be less notable from the wider conservation area and is to be offset via mitigatory re-planting.
- 10.56 Weighing the above, planning officers and the Council's Conservation officers conclude that overall and cumulatively, the harm of the proposed development on surrounding heritage assets would be less than substantial. Having regard to Paragraph 202 of the Framework, this harm should be weighed against the public benefits of the proposal. The requirement for a substantial education building and the proposed location have been justified, with clear public benefits demonstrated (set out within paragraphs 10.4 – 10.8) as required by paragraph 200 and 202 of the NPPF (2021). The public benefits would therefore outweigh the less than substantial harm.
- 10.57 For these reasons, the proposed scale and appearance of the development is considered to promote good design. Its appearance, scale, and layout would also sufficiently respect and enhance the character of the townscape and heritage assets. It is therefore considered to comply with the objectives of Policies LP24 and LP35 of the Local Plan, and guidance within the NPPF.

### *Landscaping*

- 10.58 The relocation of the main pedestrian entrance from the south-east corner of the campus to the existing vehicle entrance further west would create a new view of the façade. The creation of a new piazza and landscaping in high quality materials alongside a well-designed contemporary building should enhance its setting and mitigate the harm caused by development on this site. The erection of mesh-fencing within the site, to create a secure area for students, is an understandable desire.

- 10.59 The application is supported by a landscape scheme and appropriate Arboricultural Survey and Assessment. The application is also supported by an Arboricultural Method Statement, which outlines measures to ensure good practice in the protection of retained trees during the development. The implementation of these measures may be secured via condition.
- 10.60 Tree-loss within the site includes 14 individual trees and sections of three tree groups. Note the proposal includes the removal of a further 3 trees off-site; these are considered below in paragraph 10.62 – 10.63. The on-site loss is necessary to facilitate the development and is to be mitigated through re-planting, consisting of 14 extra heavy standard trees (16 – 18cm trunk girth) and circa 2,500 whips. These are in appropriate locations and would enhance the setting of the site and how it is viewed in the wider area. The proposal includes a large circular hard-surfaced outdoor space. The applicant states that this space has been designed in close liaison with the College to allow them to have a hard external social / breakout space, as they are currently lacking this type of space. It would be tree-lined and is expected to host moveable furniture, such as benches and tables.
- 10.61 On the whole the internal Landscaping strategy is acceptable and welcomed, securing sufficient mitigation for on-site tree loss, adding attractive planting, and the Arboricultural Management Plan would ensure the protection of retained trees during the development. Notwithstanding this, the current proposed landscaping includes several species that are classified as potentially invasive. Their replacement is a minor requirement; it is therefore recommended that a condition be imposed requiring an updated landscaping plan with the potentially invasive replaced with suitable alternatives. The condition will also require details of the landscaped area's ongoing maintenance (for a minimum of five years).
- 10.62 The scheme would also require the removal of three mature sycamore trees to facilitate the new access onto Park Avenue. The trees are owned and managed by the Council. They offer a high level of public amenity and contribute towards the character of the New North Road / Greenhead Park Conservation Area. Discussions aimed at preventing the tree loss have taken place. However, the applicant has provided justification to explain the need for the proposed Park Avenue access. This is summarized as:
- The access is needed to provide entry to an area of retained parking for the college to keep the same number of parking spaces across the site.
  - It is necessary to deliver emergency vehicle access to parts of the site, including up to a fire tender in size.
  - It is needed for servicing access to the bin store, which is positioned 'back of house' in proximity to the kitchen in the new building.

The use of the proposed access keeps the above arrangements separate to the student movements within the site. The location of the access itself has been optimised to ensure all these functions can be achieved and to minimise the impact on the Park Avenue trees. Consideration has been given to alternative points of access. However, based on the current layout that is proposed, Officers are satisfied that it is the most suitable, viable for highway

purposes and results in the least tree loss. In terms of alternative layouts for the whole site, as has been assessed previously, various layouts were considered and discounted; that proposed is also the most preferable from a heritage perspective.

- 10.63 Fundamentally the tree loss is necessary to facilitate the proposed education development which, as set out within paragraphs 10.4 – 10.8, must carry substantial weight on the planning balance. Therefore, the loss of trees is, on balance, considered justified from a planning perspective. Financial mitigation for the loss of these trees would be subject to a separate discussion between the applicant and the Council as landowner and not through the LPA. Nonetheless, for information, using their standard approach to calculating tree value, K.C. Forestry have valued the trees at £20,000, which the applicant has agreed to pay. This £20,000 is expected to be spent by K.C. Forestry on replacement street-trees and their ongoing maintenance within the area.
- 10.64 For these reasons, the proposed landscaping of the development is considered to promote good design that would enhance the character of the built environment. It is therefore considered to comply with the objectives of Policies LP24 and LP33 of the Local Plan, and guidance within the NPPF.

#### Residential Amenity

- 10.65 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. This reflects guidance at Paragraph 130 of the Framework which advises that developments should create 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.
- 10.66 The courtyard infill building is located within the site's centre, with larger college buildings in each direction. It is well spaced and screened from 3<sup>rd</sup> party dwellings and there are no concerns that it would lead to overbearing, overlooking, or overshadowing.
- 10.67 The new block is sited adjacent to the site's south-east boundary. Dwellings on Greenhead Road face towards it. At four storeys, the new building is sizable. However, the minimum separation distance from wall to wall is circa 35m with intervening features include Greenhead Road, the site's boundary wall and mature trees. While it is accepted that the new building would be prominently visible from the dwellings facing it on Greenhead Road, the described arrangement is not anticipated to cause materially harmful overbearing or overlooking upon residents. Being due north from the dwellings on Greenhead Road, overshadowing would not occur.
- 10.68 The new block would include dining and kitchen areas for the service users and therefore would involve the preparation and cooking of food. As there is existing residential amenity nearby, there is the potential to generate odours that may have an adverse impact on the amenity at nearby properties. The application was submitted with an odour impact assessment, which was reviewed by K.C. Environmental Health. On review Environmental Health raised concerns on several technical points. However, they have confirmed no in-principle objection and recommended that the outstanding technical points may be addressed via condition. A separate condition is recommended for a scheme to prevent fats, oils, and grease entering the drainage network serving large scale food preparation and dish-washing areas. Each of these conditions are deemed reasonable and are also recommended by planning officers.

- 10.69 The noise impact of the sport pitch has been considered previously in paragraphs 10.18 – 10.24. Other potential noise pollution sources include the plant for the new building and the car park, which have been considered within the submitted Noise Impact Assessment. Lighting strategies for the pitch and car park have also been submitted. These have likewise each been reviewed by K.C. Environmental Health, who consider the information adequate to establish no in-principle objection to the scheme, subject to a condition for submission of further details on technical points on lighting and noise mitigation.
- 10.70 A condition requiring the submission and approval of a Construction (Environmental) Management Plan (C(E)MP) is recommended. The necessary discharge of conditions submission would need to sufficiently address the potential amenity impacts of construction work at this site, including cumulative amenity impacts should other nearby sites be developed at the same time. Details of dust suppression measures would need to be included in the C(E)MP. An informative regarding hours of noisy construction work is recommended.
- 10.71 To summarise, the proposed development is not considered detrimental to the amenity of neighbouring residents. Subject to the proposed conditions, the application is deemed to comply with LP24 of the Kirklees Local Plan

#### Highway

- 10.72 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 would 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.
- 10.73 Consideration is first given to traffic generation. As the site is already run as an education facility, the use is established. The proposal would result in a net increase of 2,266sqm of floor space at the college. However, the proposal is not intended to increase either student or staff numbers, which are currently 2,600 and 185 (full time equivalent). The additional floorspace is to contribute to improve student social areas, dining facilities, and classrooms to modern national standards alongside ancillary rooms. It is therefore recommended that the retention of maximum student and staff numbers be secured via condition.
- 10.74 The proposal includes the all-weather pitch (AWP) having a community use, including evening and weekend opening times. This would result in travel movements at times not currently happening at the site. However, the AWP is comparatively small in scale to the main college use. Any traffic associated with it would be negligible and, as community uses would take place outside of normal college operating hours, not cumulative with the existing traffic movements. The main car park for the site, which is immediately adjacent to the AWP, is more than adequate to accommodate parking associated with out of college hours pitch use. Therefore, the proposal would not result in a material change in the site's established impact upon the local network.

- 10.75 For parking, as existing, there are 157 parking spaces for staff and visitors. Whilst these would be re-arranged within the site, this exact number would be retained. Overall, it is considered that the proposed development would have no impact on the existing situation in terms of traffic impact or parking demand, and therefore the retention of 157 parking spaces is acceptable. However, it is accepted that the delivery of the parking spaces would presumably have to be phased during construction, given site's size and layout restrictions. A condition is recommended requiring a phased delivery strategy for the car parking and the thereafter retention of the 157 parking spaces.
- 10.76 Students are not permitted to park cars on site. Student off-site parking is noted to be a concern in the area, which has previously been raised by members of the committee. However, this is an existing situation. As the proposed development would not materially change the existing situation (i.e., student numbers and demand for parking), it is deemed beyond the remit of this application to attempt to resolve this matter.
- 10.77 Members previously queried whether a dedicated bus service could be arranged for the college. Given the above assessment, this is not deemed necessary by planning officers. Nonetheless, the applicant has stated that due to the variety of places that students attend from, a dedicated bus would be impractical. Furthermore, the site is within a brief walk from Huddersfield bus station, which is a hub for most local bus services, further limiting the benefit of a direct bus. It is also close to the train station. Furthermore, the application is also supported by a travel plan which includes measures to promote alternative methods of transport for students. Measures include, but are not limited to;
- Promoting walking
    - Identifying safe walking routes. Student involvement in this is an opportunity to raise awareness about travel choices
    - Teaching students about the health benefits of fitness and walking through lessons and tutorials
    - Participation in walk to 'school' (college) week.
  - Promoting cycling
    - Provision of secure, covered cycle parking facilities for staff and students
    - Cycle maintenance courses
    - Provision of lockers and changing facilities for staff and students
  - Promote Public Transport Use
    - Advertise proximity of rail and bus stations in prospectus, college literature and newsletters
    - Maintain liaison with local authority and transport companies on costs, routes and timetables
    - Put up posters, prominently placed in the college buildings to advertise bus and train timetables

- Measures to Reduce Car Use and Encourage Car Sharing
    - Promotion of green travel week
    - Parking spaces within the site would be allocated for car share users in a preferential location. The number of car share spaces required would be monitored on an ongoing basis
    - provide train booking service through admin office for staff on trips for college business
- 10.78 A travel plan coordinator would be appointed for ongoing implementation and monitoring of the travel plan. These measures are welcomed, and it is recommended that the implementation of the travel plan be secured via condition.
- 10.79 The proposal includes 30 covered (long stay) and 6 uncovered (short stay) cycle spaces. The site has an existing 30 spaces which would be unaffected, for a proposed total of 66. The doubling of cycle parking provision, without an increase in students, is welcomed and a condition for the additional 36 spaces is recommended to be imposed. This would include requiring specific details of the cycle shelters, to ensure suitable facilities are implemented. Should student uptake of cycling notably increase, and additional storage above the 66 be necessary, the site is capable of hosting additional storage facilities: this would be monitored as part of the travel plan.

#### *Means of access*

- 10.80 The new car park would make use of an existing but unused access point onto Greenhead Road. The current car park is accessed via a one-way system with separate entrance / exit points, also on Greenhead Road. The exit is to be changed into a pedestrian only route, and the access changed to two-way traffic to the reduced car park adjacent to the main building. Each of these accesses are shown to be widened and improved with carriageway buildouts into Greenhead Road to enable the required sight lines to be achieved. The sightlines demonstrated are acceptable, however, a scheme is proposed to remove existing keep clear markings along Greenhead Road.
- 10.81 A new access would be formed onto Park Avenue, the need for which has been considered previously (see paragraphs 10.62). Sightlines have been demonstrated and are acceptable, although to enable the sightlines additional waiting restrictions along Park Avenue would be required. This would displace current on-street parking, however parking on Park Avenue is not considered ideal as it makes the road single-lane and harms traffic flow. The removal / reduction of parking on one side would improve traffic flow and is welcomed.
- 10.82 The above access works, on both Greenhead Road and Park Avenue, would require works within the highway and amendments to the existing Transport Regulation Orders. Conditions are recommended relating to the above-described works, to give further details on the buildouts and secure the sightlines at each of the Greenhead Road accesses, as well as measures to secure sightlines and protect visibility along Greenhead Road and Park Avenue.

- 10.83 Vehicle swept paths have been provided for refuse and emergency vehicles which demonstrate that these vehicles can enter and exit the site in a forward gear. The waste storage and collection arrangement shown on plan are acceptable and are recommended to be secured via condition.
- 10.84 Given the scale and nature of the development, officers recommend a Construction Management Plan be secured via condition. This is to ensure the development does not cause harm to local highway safety and efficiency. This would be required pre-commencement, given the need to ensure appropriate measures from the start of works.
- 10.85 In summary, subject to the recommended conditions, officers are satisfied that the development would not cause harm to the safe and efficient operation of the Highway, in accordance with the aims and objectives of Policies LP21 and LP22 of the Kirklees Local Plan.

#### Drainage

- 10.86 The NPPF sets out the responsibilities of Local Planning Authorities determining planning applications, including securing appropriate drainage, flood risk assessments taking climate change into account, and the application of the sequential approach. Policies LP27 and LP28 of the Local Plan detail considerations for flood risk and drainage respectively.
- 10.87 The site is within Flood Zone 1 and there are no watercourses within or in proximity to the site. There are therefore no fluvial flooding concerns for this development.
- 10.88 Foul drainage would be via the combined sewer, which is acceptable. For surface water drainage, as a brownfield site policy LP28 seeks a 30% betterment in surface water run-off to the existing discharge point. The existing brownfield runoff rate has been calculated at 212l/s. Therefore, the proposal is to restrict storm water flows to 149l/s for storms up to 1 in 100 year +30% climate change allowance with adequate attenuation demonstrated. Discharging from the site through infiltration or to an existing water course have not been deemed viable options, therefore surface water would discharge to the sewer (the predominant existing arrangement). Specifically, the new block would be fitted with a green roof to provide treatment which shall be connected to a geocellular tank to provide attenuation.
- 10.89 The proposed drainage strategy, including the discharge rate and attenuation size, is not objected to by either the LLFA or Yorkshire Water subject to conditions. To enable flexibility through the development process, the LLFA advise that the submission of full technical details be secured via condition.
- 10.90 The ongoing management and maintenance of the development's drainage and attenuation features, to ensure their ongoing safety and efficiency, is recommended to be secured via condition. Details of temporary surface water drainage arrangements, during construction, are also recommended to be secured via a condition. Finally, interceptors are proposed: a condition for full details on their details and use is recommended.



- 10.91 Considering the above, subject to the proposed conditions the proposal is considered by officers and the LLFA to comply with the aims and objectives of policies LP28 and LP29.

### Other Matters

#### *Air quality*

- 10.92 An Air Quality Assessment has been submitted in support of the application. The assessment considers the impact of the development on air quality, as well as adverse impacts at nearby sensitive receptors, during the construction and operational phases (post development). This has been assessed by K.C. Environmental Health.
- 10.93 The report concludes that pollutant concentrations of NO<sub>2</sub> and Particulate Matter would not exceed the national Air Quality objectives across the site and as such no mitigation measures are required. Despite this, the proposal does include typical mitigation by default; such as the provision of cycle spaces, a travel plan and car sharing detailed in the report above.
- 10.94 Notwithstanding the above, all developments are expected to provide Electric Vehicle Charging Points (EVCPs). Typically, the LPA seeks for 10% of new parking spaces to be served by EVCPs. No 'new' parking spaces are proposed, with the parking provision being retained at 157. Nonetheless the applicant has proposed 16 EVCPs through the site, of an acceptable type / standard.
- 10.95 The information submitted alongside the application is considered sufficient, subject to condition, to demonstrate that the proposal complies with the aims and objectives of Policies LP24, LP51 and LP52 of the Kirklees Local Plan in relation to air quality.

#### *Ecology*

- 10.96 Policy LP30 of the KLP states that the Council would seek to protect and enhance the biodiversity of Kirklees. Development proposals are therefore required to result in no significant loss or harm to biodiversity and to provide net biodiversity gains where opportunities exist.
- 10.97 The application is supported by an Ecological Impact Assessment (EclA). The site is largely brownfield land and hard surfaced, although there are areas of vegetation / woodland which is deemed to be of local value. A bat survey was undertaken on the buildings to be demolished and determined a likely absence of roosting within on-site buildings. Tree loss and removal of vegetation would take place. This is accepted to facilitate the development and is not deemed unduly harmful to local ecological value, with the caveat that vegetation should only be removed outside of the bird breeding season, unless adequate survey work is undertaken first. It is recommended that this be secured via condition.
- 10.98 Notwithstanding that the proposal would not cause material harm, all developments are expected to demonstrate a net gain to ecology, in accordance with Local Plan policy LP30 and chapter 15 of the NPPF. Net gain is measurable, and the degree of change in biodiversity value can be quantified using a biodiversity metric. The applicant has undertaken the metric calculations and concluded that post on-site interventions would result in a net

gain of 15.44% habitat units. The provision of the identified net gain along with specifics of how it would be achieved and thereafter retained for a minimum of 30 years, is recommended to be secured via a condition for a Biodiversity Enhancement Management Plan (BEMP). This may include features such as bat boxes amongst others. Subject to this condition, officers and K.C. Ecology consider the proposal to comply with the aims of LP30 of the Kirklees Local Plan.

#### *Contamination and coal legacy*

- 10.99 The applicant has submitted Phase 1 and Phase 2 ground investigation reports which have been reviewed by K.C. Environmental Health. The Phase 1 has been accepted; however, the Phase 2 provides inadequate information for Environmental Health to support their conclusion. Nonetheless, there are no prohibitive contamination-based reasons that would prevent the re-development. Accordingly Environmental Health recommend conditions relating to further ground investigations and an expanded Phase 2 report.
- 10.100 Further to the above, the site partly falls within the defined Development High Risk Area. Therefore, within the 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. The application is supported by a Coal Mining Risk Assessment which has been reviewed by the Coal Authority. The report identifies that further investigation and appropriate remediation works are necessary, however the CA are satisfied that this may be addressed via conditions. Subject to these conditions, the CA offer no objection to the proposal.
- 10.101 Subject to the recommended conditions being imposed, the proposed development is deemed to comply with Policy LP53.

#### *Crime Mitigation*

- 10.102 The site would have a high volume of foot-traffic and attendees. Policy LP24(e) requires that proposals ensure that the risk of crime is minimised by enhanced security and well-designed security features, amongst other considerations. The applicant has undertaken continued discussions with the local Designing Out Crime Officers (DOCO) and district Counter Terrorism Security Advisor (CTSA) throughout the preapplication and application processes.
- 10.103 The application is supported by documents detailing site security and mitigation measures. These have been reviewed by the DOCO and CTSA, who confirm they have no objection to the proposal. They request that advisory notes be placed on the decision notice, for the benefit of the security and safety of the site users.
- 10.104 The proposed development is deemed to comply with Policy LP53 and would benefit from the informative advisory notes provided by the DOCO and CTSA.

#### *Minerals*

- 10.105 The site is within wider mineral safeguarding area (SCR with Sandstone and/or Clay and Shale). Local Plan policy LP38 therefore applies. This states that surface development at the application site would only be permitted where it has been demonstrated that certain criteria apply. Criterion c of policy LP38

is relevant, and allows for approval of the proposed development, as there is an overriding need (in this case, the provision / retention / enhancement of education facilities) for it. The proposal is therefore not considered to conflict with LP38.

### Representations

10.106 One representation has been received. The following is a consideration of the comments made:

- The improvement of facilities at Greenhead College is welcomed. The design does not impinge upon views from Greenhead Park.

**Response:** This comment is noted and aligns with officers' assessment.

- The level of tree lost is disappointing, however it is appreciated as a necessity to maintain current level of off-road parking, with parking being an acknowledged issue of the site. However, no carbon impact assessment has been made for the loss of vegetation and trees

**Response:** Neither local nor national planning validation guidance requires a carbon impact assessment to be submitted. Furthermore, the applicant has sought to compensate for the loss of trees as set out in the report.

- The proposed 16 electric vehicle charging points is too low for 160 parking spaces. 30 cycle spaces for 2600 pupils and 185 staff is also low, despite this site being well placed for cyclists.

**Response:** The provision of 16 EVCPs for 160 parking spaces complies with Council targets of chargers in 10% of parking spaces. The proposed 36 parking spaces are in addition to 30 already on site, with 66 being deemed acceptable as set out in paragraph 10.79.

- Insufficient information has been provided to demonstrate an ecological net gain or needs to be clearer. The Ecological Impact Assessment fails to fully assess the impact of tree loss.

**Response:** The application is supported by a Biodiversity Net Gain Metric which outlines the methodology for calculating net gain. Due to IT constraints excel documents, which the full metric is, cannot be displayed online. Despite this, a detailed summary is provided within the Ecological Impact Assessment. Tree loss has been considered within both the metric and separate Arboricultural Impact Assessments.

## **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 The site is Urban Green Space, which the proposal would result in the partial loss of. The proposal therefore represents a departure from the Local Plan. Planning permission decisions must be taken in accordance with the development plan, unless there are material considerations that indicate otherwise. In this case the harm of this loss is minimal and the public benefits of the proposal, to local education and enhanced sports provision, are considered to clearly outweigh the harm caused. Therefore, the principle of development is deemed to be acceptable.
- 11.3 The site is within the historic environment and the proposal would require notable demolition and the erection of a sizable new modern building within a historic setting. The proposal would cause less than substantial harm to the New North Road / Greenhead Park Conservation Area and have a neutral impact upon the adjacent Listed Buildings. However, in accordance with S72 of the Planning (Listed Buildings & Conservation Areas) Act 1990 due consideration has been given to preserving the character and appearance of that Conservation Area. In accordance with paragraph 202 of the NPPF, the public benefits of the proposal, including educational and sports enhancements, are deemed to outweigh the less than substantial harm caused.
- 11.4 The proposed development is not deemed harmful to the amenity of local residents, nor would it harm the safe and effective operation of the highway, subject to the recommended conditions. Other material considerations have been assessed, including drainage and ecology, and likewise have been demonstrated to have acceptable impacts.
- 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 constitute sustainable development and is therefore recommended for approval, subject to conditions.

**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. Condition for the community use of the playing pitch
4. Hours of use for the pitch (Monday – Friday 0830 to 2030, Weekends – 0900 to 1300)
5. Development done in accordance with Energy & Sustainability Statement
6. Method statement to show how the external walls of the old school building would be cleaned, repaired and pointed following demolition.
7. Material samples to be submitted
8. Odour report technical points clarification
9. Fats, oils, and grease prevention scheme
10. Noise impact assessment, with amendments to address comments, submitted and implemented.
11. Lighting strategy, with amendments to address comments.
12. Construction Environmental Management Plan (CEMP) to be provided.

13. Limit site to 2,600 students and 185 staff (full time equivalent).
14. Buildouts and sight lines at Greenhead Road and Park Avenue accesses to be provided and secured
15. Construction Management Plan (CMP) to be provided.
16. Applicant's travel plan to be implemented
17. Waste storage / collection areas to be provided and retained.
18. Provision of 66 cycle spaces.
19. Delivery strategy, phased with temporary spaces if required, of all 157 parking spaces to be provided and retained.
20. Coal Authority ground investigation and remediation conditions
21. Environmental Health ground contamination investigation conditions
22. Provision of the proposed Electric Vehicle Charing Points (EVCP)
23. No vegetation clearance in bird breeding season without survey
24. Provision of Biodiversity Enhancement Management Plan (BEMP), to provide and maintain 10% net gain minimum
25. Full technical details on foul, surface water and land drainage to be provided.
26. Management and maintenance of drainage infrastructure
27. Details of temporary surface water drainage arrangements during construction
28. Development in accordance with Arboricultural Method Statement.
29. Notwithstanding the submitted plans, landscaping plan minus invasive species to be submitted and ongoing maintenance details.

## **Background Papers**

### Application and history files

Available at:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021/93674>

### Certificate of Ownership

Certificate A signed. Notice served on Kirklees Council (access onto public highway).

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

Date: 16-Dec-2021

**Subject: Planning Application 2021/91826 Variation of Condition 30 (Restoration Scheme) of previous permission 2000/90671 for the extension of Carr Hill Quarry including the extraction of sandstone and clay, associated ancillary activities and its restoration by means of infill with inert wastes, consolidating permission 1987/05723 Extension of a disused quarry for winning minerals and subsequent backfilling with approved inert waste Carr Hill Quarry, Barnsley Road, Shepley, Huddersfield, HD8 8XN**

#### APPLICANT

Danny Watson, PMW  
Quarries Ltd

#### DATE VALID

20-May-2021

#### TARGET DATE

15-Jul-2021

#### EXTENSION EXPIRY DATE

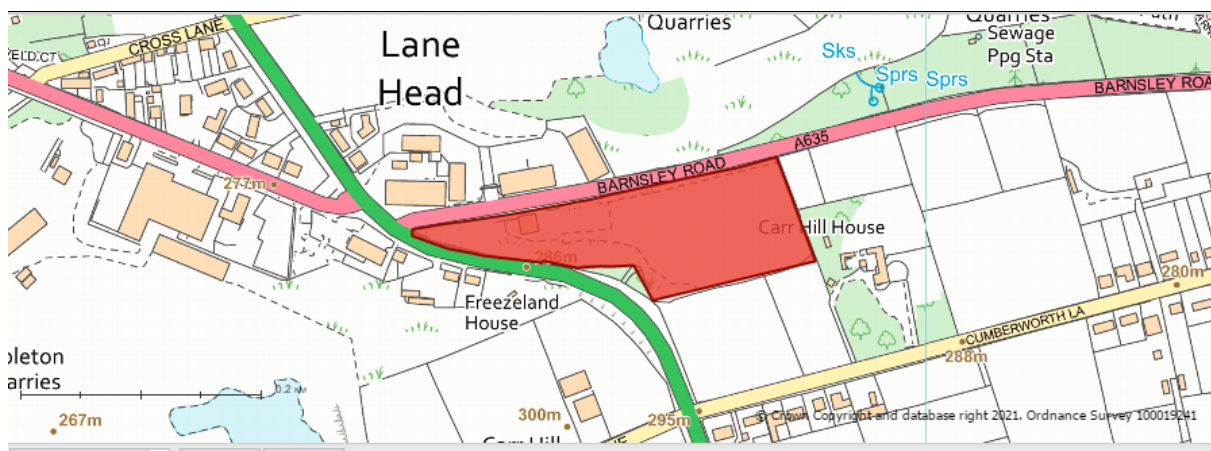
23-Jul-2021

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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

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**Electoral wards affected: Denby Dale**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**RECOMMENDATION:**

Refuse planning permission for the following reason:

1. The proposed revision to the previously-approved restoration scheme includes the introduction of an engineered retaining structure and the retention of a level area, which would harm the visual amenities of the site and its context, would detract from local landscape character, would have an urbanising effect on the site and its surroundings, would result in development encroaching into the countryside, would result in built-up sprawl in the green belt, would fail to preserve the openness of the green belt, and would conflict with the purpose of including the land within the green belt. The proposed soft landscaping would not mitigate the harmful impact of the proposal. The proposal does not fall under any of the exceptions listed under paragraphs 149 and 150 of the NPPF. The proposal is, by definition, inappropriate development in the green belt, and very special circumstances (which clearly outweigh this inappropriateness and other harm) have not been demonstrated. The proposal is therefore contrary to policies LP32 and LP37 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

**1.0 INTRODUCTION:**

- 1.1 This application is submitted under Section 73 of the Town and Country Planning Act 1990 (as amended), and seeks to vary condition 30 (restoration scheme) of previous permission ref: 2000/90671.
- 1.2 The application is brought to Strategic Planning Committee (SPC) for determination under the terms of the Delegation Agreement following a request from Ward Councillor Michael Watson. Cllr Watson's grounds for requesting a committee decision are set out at paragraph 7.3 below.
- 1.3 The SPC Chair has confirmed that Cllr Watson's request is valid having regard to the Committee protocol.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The site lies approximately 1km southeast of Shepley village and is situated south of and immediately adjacent to the A635 Barnsley Road. Access into the site is approximately 120m metres east of the sovereign crossroads junction with the A629 Penistone Road. The surrounding area is rural in character and the site lies within the green belt.



- 2.2 A mobile crusher / screen plant for recycling of construction, demolition and exaction waste is in operation within the northeast part of the site. This was granted permission under planning application ref: 2011/91942. The permission expires at the same time (31/08/2022) the previously approved restoration scheme should be completed under application ref:2000/90671.
- 2.3 The site also accommodates a workshop / garage west of the site entrance. This was recently confirmed to be lawful for the purpose of planning control under a certificate of lawful development application ref: 2020/93854. Both facilities are served by the existing gated access from Barnsley Road. The site is bound by a palisade fence and an earth bund with landscaping which has matured over time along this road frontage. The site appears to have been restored in part with higher land levels along the southern end of the site adjacent to Penistone Road. Part of this boundary also benefits from mature landscaping. The character of the landscape in the vicinity of the site is that of gently undulating managed pasture / scrub and arable fields with pockets of woodland and intermittent residential elements.

### 3.0 PROPOSAL:

- 3.1 The application is a resubmission of planning application 2019/93039, refused on 17/12/2021. This application is made under Section 73 of the Town and Country Planning Act 1990 (as amended) to amend / vary the previously-approved restoration scheme under planning permission 2000/90671 by varying the wording of condition 30, which reads:

*After completion of minerals extraction, the site shall be reclaimed progressively in accordance with a detailed scheme submitted for the approval of the Mineral Planning Authority prior to the commencement of backfill operations using imported waste. Unless otherwise agreed in writing by the Mineral Planning Authority the submitted scheme shall provide for;*

*(a) the phasing and direction of the backfilling of the site with imported waste.*

*(b) the removal of plant, buildings and structures, machinery and haul roads.*

*(c) the whole of the area indicated by a brown line on Drawing No.CH006 revision 1 to be planted as amenity woodland.*

*(d) the location of areas to be restored to woodland, agriculture and the location of hedges, fences and gates.*

*(e) the use of cell grown tree and shrub plants only; in the approved planting scheme submitted on 5th May 2000 quercus petraea specimens being replaced by quercus robur and the nurse species larix euroleptis and picea sitchensis being replaced by quercus robur anfraxinus excelsior.*

*(f) on areas of the site to be restored for agriculture a minimum combined depth of 1 metre of topsoil, subsoil and subsoil forming materials shall be placed on the surface of the final waste deposit.*

*(g) on the areas of the site to be restored for woodland a minimum depth of 1.5 metres of subsoil and subsoil forming materials shall be placed directly on top of the final waste deposit.*

*(h) the ripping of any compacted layers of final cover on the backfilled waste deposit to ensure adequate drainage and aeration before the spreading of topsoil.*

- (i) the final levels and contours of the restored land graded to prevent ponding and promote good drainage*
- (j) grass seeding of any areas to be reclaimed to agriculture*
- (k) details of trees and shrubs to be planted, species, size, density and method of planting, protection against pests by the use of tree shelters, weed control, trees and shrubs to be native specie*
- (l) a land drainage scheme for the restored land to be implemented after the completion of settlement.*
- (m) the removal of all soil storage mounds.*
- (n) new fences, gates and stiles to be in the local style.*
- (o) programme of works.*

3.2 The variation and new wording sought is:

*“After the completion of quarrying and backfill, the site shall be reclaimed in accordance with drawings R-2261-1D, PMW/01/01B and 10158A/01C, together with the revised supporting statement dated April 2021”.*

3.3 In this instance whilst the applicant has applied to vary one specific planning condition attached to planning permission 2000/90671, Section 73 of the Town and Country Planning Act 1990 (as amended) allows a Local Planning Authority to review all the planning conditions included on that planning permission to update, amend or omit them if required. In the event the proposals are supported by Members, consideration of previous conditions will also be necessary.

#### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

- 4.1 2020/93854 – Certificate of lawfulness issued 29/01/2021 for existing use of detached garage for the repair, maintenance and storage of vehicles including those not associated with activities at Carr Hill Quarry.
- 4.2 2019/93039 – Variation of condition 30 (restoration scheme) of previous permission 2000/90671 for extension of Carr Hill quarry including the extraction of sandstone and clay, associated ancillary activities and its restoration by means of infill with inert wastes – refused 17/12/2019.
- 4.3 2011/91942 – Use of land for recycling of construction, demolition and excavation waste – granted 22/12/2011 subject to all recycling activities at site ceasing by 31/08/2022 under condition 3)
- 4.4 2005/93719 – Telecommunications notification for the prior approval of details for erection 15 metres column 3 pole width, 2 antennas, 1 transmission dish and 1 equipment cabinet – refused 10/10/2005.
- 4.5 2005/90132 – Parking of heavy goods vehicles – refused 13/05/2005 – appeal dismissed November 2005 in relation to the creation of a level area (see assessment below, paragraphs 10.4 and 10.5).
- 4.6 2002/94011 – Erection of detached garage for the maintenance and storage of vehicles associated with ongoing activities at Carr Hill quarry – granted 20/01/2003 for a limited basis to expire on 31/12/2007.

4.7 2000/90671 – Extension of Carr Hill quarry including the extraction of sandstone and clay, associated ancillary activities and its restoration by means of infill with inert wastes – granted 31/08/2000 and condition 30 subsequently discharged.

4.8 1987/05723 – Extension of disused quarry for winning minerals – granted 23/02/1988.

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

5.1 None.

## **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 site is in the green belt on the Kirklees Local Plan and relates to an operational quarry where all mineral has been exhausted and restoration has been commenced in part. Relevant Local Plan policies include:

LP21 – Highways and access

LP32 – Landscape

LP37 – Site restoration and aftercare

LP52 – Protection and improvement of environmental quality

LP53 – Contaminated and unstable land

### Supplementary Planning Guidance / Documents:

6.3 Relevant guidance and documents are:

- National Planning Practice Guidance
- National Planning Policy for Waste

### National Planning Policy and Guidance:

6.4 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:

Section 6 – Building a strong, competitive economy

Section 13- Protecting Green Belt Land

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

Section 15 – Conserving and enhancing the natural environment

Section 17 – Facilitating the sustainable use of minerals

## 7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised by a site notice and a press notice published on 11/06/2021 in accordance with the adopted Statement of Community Involvement. Members for Denby Dale ward were also notified. The end date for publicity was 02/07/2021. No local representations were received.

7.2 Denby Dale Parish Council – No objection.

7.3 Councillor Watson commented as follows:

### *The Development Plan and The Various Policies*

*I understand that this is proposed development in the green belt and therefore the application will have to be considered in this context. Given this the process is likely to benefit from the opportunity for interested parties to address the committee members given the potential impact of the decision on the viability of other aspects of the site.*

### *The Planning History of the Site*

*The current application is intrinsically linked with the long planning history of the site and, therefore, it is important that this should be fully considered and the current application would benefit from being determined by the committee with the benefit of full representations in relation to the planning history of the site and how that has shaped the current situation on site.*

*The views of local people insofar as they are based on relevant planning issues.*

*Given the use of the site over many years this is not simply an open and shut case of considering new development in the green belt but rather there appear to be more subtle issues to be considered and with this in mind it would seem prudent to have these matters tested before, and ultimately determined by, the Heavy Woollen sub-committee with members of the local community having the opportunity of addressing the committee directly if they are so minded.*

*This letter is not intended to be any form of representation as to the merits of the application. It is also not intended to suggest any criticism of officers in their ability to exercise delegated powers to determine planning applications but rather having considered the specific provisions of the council's constitution in relation to referral by members it seems to me that this is an application that satisfies a number of the material considerations.*

*It also seems to me that it is very much in the interests of everyone involved that it should be determined by the sub-committee having regard to the fact that it relates to a site that historically provided employment within the ward and the outcome is potentially of interest to a number of residents in the ward and accordingly I would venture to suggest that it would be both proper and prudent that elected members should have responsibility for the decision.*

*Accordingly, I should be grateful if you could arrange for it to be referred as requested.*

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

8.2 Environment Agency – This development has an existing permit under the Environmental Permitting (England and Wales) Regulations 2016, which has differing landform levels to that within the existing planning permission. Should a site deposit more waste than is permitted, or a finished landform that differs from that submitted as part of the permit application, enforcement action may be taken by the Environment Agency.

Based on the information submitted with the planning application, we have not identified any major concerns, though if anything in the planning application is not in the Environmental Permit, then a variation of the Environmental Permit may be required.

This falls outside of our groundwater consulting screening tool (minor aquifer) but we wouldn't have an objection. The variation will have minimal impact on groundwater.

8.3 KC Highways Development Management – A similar proposal was refused on the grounds that the development would harm the openness of the green belt. No highway issues were raised at this time. An existing access is retained, as is off-street space for parking and internal turning. The proposals do not generate any highway concerns, and the scheme is therefore acceptable from a highway perspective.

### **8.4 Non-statutory:**

8.5 KC Ecology – [comment on previous application ref: 2019/93039] No objection based on the scheme presented in the Landscape Details drawing.

## **9.0 MAIN ISSUES**

- Relevant background
- Principle of development and green belt impact
- Other harm
- The applicant's case
- Impact on surrounding amenity
- Highway matters
- Conclusion

## **10.0 APPRAISAL**

### Relevant background

10.1 The proposal seeks to amend / vary the previously-approved restoration scheme approved under condition 30 of planning permission ref: 2000/90671. The following paragraphs set out the most relevant events in relation to permissions / refusals at this site since that 2000 permission was granted.

- 10.2 Temporary permission was granted in January 2003 for the erection of a detached garage for the maintenance and storage of vehicles associated with ongoing activities at Carr Hill Quarry under application 2002/94011. That permission expired on 31/12/2007 and upon expiration the site was required to be restored. This was not done and the matter was raised with the applicant by officers at the time of considering application ref: 2019/93039 (see 10.6 below).
- 10.3 A certificate of lawful development was received last year and granted for the retention of the garage / workshop under application 2020/93854. The lawful use under the certificate of lawful application is for the repair, maintenance and storage of vehicles including those not associated with activities at Carr Hill Quarry.
- 10.4 In May 2005 an application (ref: 2005/90132) to create a level plateau area of approximately 160sqm within the site, along the road frontage, was refused on grounds of inappropriate development in the green belt and the impact on visual amenity (due to the proposed parking of vehicles on the level area). An appeal was lodged against the decision and dismissed in November 2005.
- 10.5 The Inspector concluded that creating a level area within the site approximately 160sqm in size and close to and to the east of the entrance and front boundary would be visually intrusive, despite the screening mound to the east of the site entrance. In addition, the Inspector acknowledged the examples quoted by the applicant of other green belt developments in the locality, particularly those on the opposite side of the road. The Inspector concluded none of the quoted cases could be compared to the appeal proposals. This appeal decision is valid and remains a material consideration as the circumstances in terms of considering inappropriate development in the green belt remain the same.
- 10.6 Temporary permission was also granted at the site in December 2011 for use of land for a mobile crusher / screening plant for recycling of construction, demolition and excavation waste under application ref: 2011/91942. All activities should cease by 31/08/2022 under condition 3 of the permission, and the site is required to be restored.
- 10.7 In December 2019, an application was refused for similar proposals (to those now proposed) on green belt grounds, for which no very special circumstance existed to outweigh the inappropriate development and other recognised harm.

#### Principle of development and green belt impact

- 10.8 The NPPF confirms that the fundamental aim of green belt policy is to prevent urban sprawl by keeping land permanently open, and identifies five purposes of the green belt (paragraphs 137 and 138). The most relevant to this case being, a) to check unrestricted sprawl of large built-up areas, and c) to assist in safeguarding the countryside from encroachment. Paragraphs 147 and 148 of the NPPF state that inappropriate development is, by definition, harmful to the green belt and should not be approved except in very special circumstances which clearly outweigh the harm to the green belt by reason of inappropriateness and any other harm. All proposals for development in the green belt should be treated as inappropriate unless they fall within the exceptions set out in paragraphs 149 or 150 of the NPPF.

- 10.9 At the time of considering the 2019 application, it was common ground between the applicants and officers that the proposals were inappropriate development as they did not fall within one of the exceptions set out in the NPPF. The supporting statement accompanying the 2019 application acknowledged this.
- 10.10 The supporting statement accompanying this application states:
- "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." One of the listed forms of development is "mineral extraction". When the quarry was extended in 2000 under permission reference 2000/62/90671/EO, and on previous occasions, account will have been taken of the Green Belt status of the Site. The decision to grant permission, since the policy guidance was very similar if not the same, would have been on the basis that quarry operations including restoration preserved openness and did not conflict with the purposes of including land in the Green Belt. The principle of the restoration of the quarry was therefore not inappropriate development in the Green Belt. In the context of this application to vary the restoration scheme, the use to which the land would be put following restoration would remain the same as with the current approved restoration landform, with the exception of the garage, access and hardstanding. The level area facing Barnsley Road, would assist with an agricultural use for stocking."*
- 10.11 In response to the applicant's statement above, it is agreed that the principle itself of a restoration scheme would not be considered inappropriate development, nor would the proposed end use, provided the restoration scheme and end use would prevent urban sprawl and would preserve the openness of the green belt. Planning permission ref: 2000/90671 considered the principle of restoration to be appropriate, however as no details for the restoration scheme were submitted at the time, a condition (30) was imposed on the permission to allow for full details of a restoration scheme of the site to be submitted and approved. The previously approved scheme under condition 30 did not raise concerns in relation to green belt and was considered appropriate development as it proposed to return the site near to its original land levels, with soft planting and dry stone walls to match existing walls in the locality.
- 10.12 Minerals have been exhausted from the site. The details approved in relation to condition 30 of application ref: 2000/90671 indicated returning the site back near to the original land levels, with work to be carried out in four separate phases. Phases 1, 2 and 3 of that restoration scheme show the retention of the garage / maintenance workshop, with it to be removed prior to the commencement of phase 4. Phase 4 involved the remainder of the void being infilled and brought back near to the site's original land levels. The site access is shown to be retained to form an agricultural access with the final stages of the approved scheme providing soft landscape planting with the inclusion of dry stone walls / gates.

- 10.13 The detached garage / workshop for the repair, maintenance and storage of vehicles was granted to be lawful, after the 2019/93039 revised restoration refusal. Therefore, this building is to be retained. Whilst it is reasonable to allow for an area of hardstanding (serving the garage) to be retained for manoeuvring of vehicles associated with the lawful use of the garage / workshop, the extent of this as shown on the submitted plans does not accord with the hardstanding area shown on phase 3 of the approved restoration scheme and as such has not been approved. The area of hardstanding in association with the use of garage / workshop still needs to be determined and approved – this would need to be done with reference to vehicle swept path diagrams accompanying a formal application.
- 10.14 As noted above, the previously-approved restoration scheme would have ensured a reversion almost to the sites original land levels, creating a sloping hillside in a condition that would contribute to the rural character of the area, with little obvious evidence of large-scale human intervention in the shape of the landscape. The proposed revised scheme, however, differs greatly to that earlier scheme, particularly in relation to the previously-approved land levels.
- 10.15 The current revised restoration scheme proposes to create (or retain) a level area along almost the full length of the road frontage past the gated entrance up to the site's eastern boundary, and introduce an engineered retaining structure to accommodate this flat level area, as shown on drawing R/2261/1D. The level area would be approximately 37m at its widest point and 21m at its narrowest. This is identical to the recent refusal under planning application 2019/93039, albeit now proposed to include planting and grass over the level area.
- 10.16 The revised restoration proposals, by retaining the flat area and introducing a harsh engineered retaining structure to accommodate the proposed flat level area along the full site frontage, would result in an urbanising effect at the site. These elements would clearly read as a human intervention in the landscape. The proposed planting and grass to the flat area would not disguise this scar, and would not mitigate the harm caused.
- 10.17 The unrestored site would result in built-up sprawl in the green belt, and encroachment into the countryside, failing to preserve the openness of the green belt, and conflicting with the purpose of including land within it. The proposal is contrary to paragraph 138 points a) and c) of the NPPF and advice in National Planning Practice Guidance. Very special circumstances do not justify this inappropriate green belt development.

#### Other harm

- 10.18 Local Plan Policy LP37 states that mineral working will be permitted only where the council is satisfied that the site can be restored and managed to a high standard, and where the proposed restoration is sympathetic to the character and setting of the wider area and is capable of sustaining an appropriate after-use. It adds that “restoration proposals for mineral workings should be designed to (inter alia) ensure that restoration and aftercare is appropriate with regard to the characteristics of the site's surroundings, including landscape character”.



- 10.19 The revised restoration proposals, by introducing an extensive level platform along the road frontage, together with the harsh engineered retaining structure would create an inappropriate feature within the local landscape. The resultant impact would not only detract from the landform of the site itself and surrounding topography of the site (which consists of gently undulating fields) but would also cause long term permanent harm to the visual amenity of the area, contrary to Local Plan policy LP37 and advice in the NPPF and National Planning Practice Guidance.
- 10.20 Again, it is noted that there are no very special circumstances that would outweigh the recognised harm that would be caused by the proposal.

The applicant's case

- 10.21 The applicant's supporting statement notes:

*"The retention of the garage and the operational land around it, as a permanent lawful use, has changed the circumstances which lead to the refusal of the previous application to discharge the condition".*

- 10.22 Of note, however, the previous refusal reason did not exclusively relate to the retention of the garage / maintenance workshop but referred also to the creation of a flat level area along almost the full site frontage and the engineered retaining structure.
- 10.23 The granting of the lawful certificate for the garage does not address the concerns relating to preserving the openness of the greenbelt but evidences that the garage is lawful for the purpose of planning control and immune from enforcement action. No level area within the site benefits from the granting of the certificate of lawfulness. The current level areas are used in association with the mobile recycling and screening plant, for which the permission expires in August 2022, the same time the restoration is required to be implemented.
- 10.24 The following is an outline of the applicant's other arguments in support of the proposed revised restoration scheme, along with officers' response to each point:

*1. The western end of the gabion wall is required to provide a stable slope above the access and hardstanding.*

Officer's response:

The existing stone boulders within the northwest part of the site were placed as toe reinforcement approximately 20 years ago. No evidence or survey results have been provided in the submission documents that suggest there is instability within or close to the entrance to the site or the garage / workshop, which has been operating without any apparent instability issues affecting land surrounding it. The proposed engineered retaining structure is required by the applicant to accommodate the proposed level area beyond the site entrance towards the eastern part of the site, and not the site entrance or land around the garage / workshop.

*2. The 1.5m high retaining structure is necessary to provide slope stability whilst enabling a grassed level area on the site frontage to assist with future agricultural use to offer the ability for sheep grazing, to control stock, to bring the beasts in and out, and to provide water and winter fodder.*

Officer's response:

The introduction of the retaining structure is to accommodate the proposed level area which is considered, as set out in the assessment above, to be inappropriate development. The flat area would urbanise the site and encroach into the countryside. The previously-approved restoration land levels and end use would see the site brought back to a rolling hillside suitable for agricultural use. Sheep are able to graze on sloped land.

*3. The current Environment Agency (EA) permit for the site does not allow for the full infill of the quarry, which is to ensure the long-term stability of the quarry faces and could be open to enforcement action from the EA if failing to obtain a permit that coincides with the approved restoration scheme.*

Officer's response:

It is accepted that a current EA permit allows for the stabilising of the exposed quarry faces. Drawing 1320-551 Rev A, submitted with the application indicates the restoration contours to be achieved within the EA permit. Whilst this does not accord with the previously-approved land levels under condition 30, the EA permit would ensure the restoration of the site more in keeping with the surrounding landscape. Moreover, it is unlikely to require the proposed retaining structure as this is to accommodate the creation or retention of a level area within the eastern part of the site. Should a proposal come forward for a revised restoration scheme, to accord with the EA permit, this is more likely to be supported by officers, subject to all other considerations. This would avoid the applicant needing to obtain a variation of the current EA permit but also enforcement action by the EA.

*4. To achieve level strip along site frontage to enable access to eastern part of restored area to facilitate better drainage.*

Officer's response:

No drainage issues were raised at the time of considering the 2019 application and there are no known land drainage issues at this site. Whilst the Local Lead Flood Authority has been consulted and their response will be included in the committee update or presented on the day of committee, it is noted that condition 30 of the 2000/90671 permission requires a land drainage scheme to be approved and implemented after the completion of the settlement of land within the site.

*5. The proposed landform will be more open than the approved restoration scheme, in that the steep slope is set back further from the boundary with Barnsley Road. The visual impact will therefore be reduced when compared with the current approved restoration landform.*

Officer's response:

There is no definition of openness in the NPPF in the green belt context. However, in an appeal decision relating to a case (ref: 2018/94092, Emley Fields Liley Lane) which was considered at the Strategic Planning Committee meeting of 23/01/2020, the Inspector states (in the green belt context) "it is generally held to refer to freedom from, or the absence of, development".

The proposed engineered retaining structure and retained level area are development, and – as noted above – would urbanise the site, would fail to preserve the openness of the green belt, would detract from the surrounding landscape and would encroach into the countryside. The development would conflict with the purpose of including land within the green belt.

#### Impact on surrounding amenity

- 10.25 Whilst mineral extraction at the site has ceased, the site also benefits from an extant permission to use part of the site for recycling of waste. Other than the applicant's own dwelling, beyond the southeastern boundary, the nearest other residential properties lie southwest of the site. However, these dwellings are located on a much higher elevated area of land, set back away from the site, separated by a road and adequately screened with existing mature landscaping on the application site's southern boundary. Subject to restoration proposals being carried out in accordance with relevant conditions of the 2000/90671 permission, it is unlikely that the amenity of the occupants of nearby properties including residential properties would be harmed by the proposal.

#### Highway matters:

- 10.26 The site is currently accessed via a gated access from the A635 Barnsley Road. The access to the site is constructed to a high standard and provides satisfactory access into the site. HGV movements would continue to be restricted under the terms of the current operative planning permission and the current proposal would not involve any increase in the numbers of HGV movements to and from the site.
- 10.27 Highways Development Management have not raised any concerns regarding the proposal.
- 10.28 In light of the above, given the operations including vehicle movements at the site are controlled by the 2000 permission conditions, the proposal accords with Local Plan Policy LP21 and raises no highway safety concerns.

#### **11.0 CONCLUSION**

- 11.1 The site is the subject of an approved restoration scheme which would see the site returned near to the original land levels. The approved scheme allows for the access to the site to be retained and for an agricultural access. The final stages of the approved scheme would involve soft landscape planting with the inclusion of dry stone walls / gates.
- 11.2 The proposed revised restoration scheme, by creating a level flat plateau area along the site frontage and introducing a harsh retaining structure, would fail to preserve the openness of the green belt for the reasons set out above in the assessment. No very special circumstances exist that would be sufficiently exceptional to clearly outweigh the harm caused to the green belt by virtue of inappropriate development and other recognised harm, as set out above.
- 11.3 Submitted drawing 1320-551 Rev A, indicates the restoration contours to be achieved within the EA permit. Despite the land levels to be achieved within the current EA permit not according with the approved restoration scheme under condition 30, this is more likely to be supported by officers. It would

result in the site integrating adequately with the rural characteristics of the surrounding landscape of rolling hillsides and would still be suitable for agricultural use after restoration. In addition, this would alleviate the need for a harsh retaining structures to accommodate the proposed level areas, and potential enforcement action by the EA.

- 11.4 Other than the issue of the “site provided employment historically in the ward” all other issues raised by Cllr Watson are taken into account in the assessment above. With respect to employment, there would be no loss as the garage / workshop has been confirmed to be lawful and would be retained.
- 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 proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in Section 13 of the NPPF and National Planning Practice Guidance.

## **12.0 REASON FOR REFUSAL:**

1. The proposed revision to the previously-approved restoration scheme includes the introduction of an engineered retaining structure and the retention of a level area, which would harm the visual amenities of the site and its context, would detract from local landscape character, would have an urbanising effect on the site and its surroundings, would result in development encroaching into the countryside, would result in built-up sprawl in the green belt, would fail to preserve the openness of the green belt, and would conflict with the purpose of including the land within the green belt. The proposed soft landscaping would not mitigate the harmful impact of the proposal. The proposal does not fall under any of the exceptions listed under paragraphs 149 and 150 of the NPPF. The proposal is, by definition, inappropriate development in the green belt, and very special circumstances (which clearly outweigh this inappropriateness and other harm) have not been demonstrated. The proposal is therefore contrary to policies LP32 and LP37 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

### **Background Papers:**

Application and history files – see above “Relevant planning history” and “Relevant background” sections.

### **Website link:**

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f91826>

### **Certificate of Ownership:**

Certificate A signed by the agent on behalf of the applicant.

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

Date: 16-Dec-2021

**Subject: Planning Application 2018/93676 Infill of land and formation of access and turning facilities, temporary fence and restoration to agricultural use Land North West, Hog Close Lane, Holmfirth, HD9 7TE**

#### APPLICANT

P Turner

#### DATE VALID

04-Feb-2019

#### TARGET DATE

06-May-2019

#### EXTENSION EXPIRY DATE

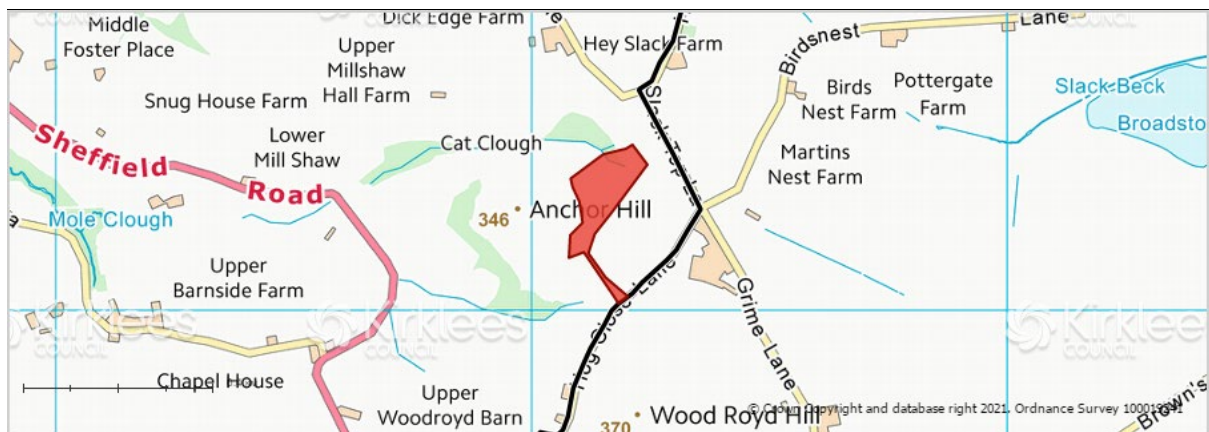
15-Mar-2021

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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**

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**Electoral wards affected: Holme Valley South**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**RECOMMENDATION: REFUSE**

The Council has sufficient landfill capacity in the district for meeting the needs of Construction, Demolition and Excavation waste. The submitted information fails to sufficiently demonstrate and justify that there is a proven need for additional landfill capacity for this type of waste, contrary to Kirklees Local Plan Policy LP46.

**1.0 INTRODUCTION:**

1.1 This application is brought to this Strategic Planning Committee (SPC) following the second deferral of this application at the 29 July 2021 SPC meeting to allow for further information to be provided in respect of:

- Quantitative details (figures) of the amount of capacity available at each landfill site and;
- Quantitative details (figures) of benefits to agricultural production (increase in livestock or crop production) associated with

The table at paragraph 10.17 includes an additional column with this information where it has been made available. In addition, details for each relevant listed quarry under this paragraph has been expanded upon to give Members a fuller account of current works at each listed quarry.

1.2 With respect to quantitative details (figures) of benefits to agricultural production, the applicant/agent has provided the following details:

‘Significant improvement to the farm allowing the land to be regularly grazed under basic rotation providing enough improved grassland for a minimum of 10 sheep per acre (25 per hectare) and increasing the flock size by 84 sheep in total’.

1.3 As Members may also recall, the application was previously considered and deferred at the 31 March 2021 SPC to allow the applicant to be given the opportunity for the submission of a waste needs assessment to demonstrate the need for additional land capacity to deposit construction, demolition and excavation waste and provide details of an enhanced landscaping scheme.

**2.0 SITE AND SURROUNDINGS:**

2.1 The application site currently comprises agricultural pastureland, a void in the form of a gully, which extends into two fields and an existing farm track. It extends to approximately 1.93ha of land, stated to be in association with Martins Nest Farm. The site is bordered to the north, south and west by open land and to the east by Slack Top Lane. Access into the site is taken from the existing track, off Hog Close Lane.

2.2 The character of the area is predominantly rural with isolated residential properties and farmsteads, the nearest of which is a residential property on Grime Lane, approximately 200m to the south east, at Martins Nest Farm and Upper Woodroyd Barn which is a similar distance to the south. The site is immediately adjacent to the boundary with Barnsley Metropolitan District with Hog Close Lane and Slack Top Lane forming the boundary line between the Barnsley and Kirklees.

### **3.0 PROPOSAL:**

3.1 This application seeks full planning permission for landfill operations with inert and clean demolition material, the re-alignment of a length of approximately 25m of the start of the existing farm track and the provision of an on-site turning area for large vehicles, which would consist of hard surfacing. The associated works would involve:

- Infill of the gully with a total volume of 29,207 cubic metres of material, consisting of 19,258 cubic metres of inert waste, 7,106.5 cubic metres of clay cap and 2,843 cubic metres of topsoil;
- Widening and realignment of the entrance of the existing access track and provision of an on-site turning area;
- The erection of a temporary 1.2m high mesh perimeter fence and gates to secure the site during the fill and restoration phases;
- Restoration of the site to agricultural use after landfilling is complete
- Compensatory works to replace the permanent loss of high value habitat, to encourage biodiversity on and off site;
- Diversion of a water course, and
- A series of perforated pipes within the landfill area, which will convey flow via weep holes downstream of the proposed infill

3.2 The supporting statement states that the purpose of the development is to help diversify the income of the farm and provide additional revenue to invest in the overall agricultural business. The applicant asserts that by filling the void with inert and clean demolition waste material then restoring the land to integrate with levels of the surrounding farmland, it will help make the land more productive and usable for agricultural purposes.

3.3 Waste material is proposed to be brought to the site on 4 axel tipper trucks, capable of carrying 20t loads. Loads are proposed to be limited to approximately 8 per day (i.e. 8 in and 8 out). This would equate to a total of 16 vehicle movements per day.

3.4 It is proposed to operate the site for 5.5 days per week (i.e. 8am–5pm weekdays and 8am–12 noon on Saturdays). The supporting information states that approximately 1245 deliveries will be required to infill the site and import sub-soil for the clay cap.

3.5 The application is accompanied with several reports/plans, most of which were submitted during the course of the application between May 2019 – February 2021, to address issues raised by a number of consultees, through the consultation process. These include:

- Private water supply surveys (x2);
- Ecology impact assessments;

- Compensatory biodiversity net gain proposals;
- Maintenance & management plan (habitat enhancement);
- Drainage assessments;
- Phase 1 Geotechnical report;
- Planning justification statement;
- Additional Planning justification statement.

3.6 In addition to the above, following the first deferral at the 31 March SPC meeting, further information was received. This included:

- Supporting letter, email copies from 3 quarry operators and price comparison information per load for tipping, from MWP Planning on behalf of the PMW Quarries LTD (not the applicant) who wishes to deposit the waste at the application site.
- A summary of the information contained within the supporting letter from MWP, from the acting agent on behalf of the applicant (see paragraphs 10.12, 10.13, 10.16, 10.17, 10.18, 10.19 and 11.2 where these details are assessed)

#### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

2013/91569 - Erection of 15kW wind turbine on a 15m mast (approved 13.2.14)

2015/91241 – Installation of 1 no.85kW wind turbine on a 24m monopole mast (approved 29.9.15)

2016/93948 - Formation of landfill incorporating access and turning facilities and erection of temporary fencing- Withdrawn

##### **Enforcement:**

COMP/17/0051- the Alleged unauthorised material change of use to deposit waste material. The file was closed as it was found there was no evidence of a breach. Case officer's notes on file state:

*'Small amount of tipped material consisting of largely scrap timber sheeting, general building debris and discarded timber adjacent wind turbine. Appearance of fly tipping rather than any attempt to infill the adjacent clough'*

No further complaints or recent complaints have been received since this file was closed.

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

5.1 An area of 0.14ha compensatory woodland planting along with other compensatory measures was accepted previously by officers, as shown on drawing 'Fig A Compensation proposals'. However, at the SPC meeting of 31<sup>st</sup> March, Members requested that the proposed woodland planting be increased. The applicant is agreeable to this and confirmation of the amount of additional (0.14h, see paragraph 10.28 below) compensatory planting that was offered was set out in the July SPC update. Should Members resolve to approve the application against the Officer recommendation, the 'Compensation Proposals' would need to form part of the biodiversity metric calculation and be included within the maintenance schedule to accompany any S106 agreement. The applicant is aware and would be agreeable to this.



- 5.2 In the course of the application, revisions were requested to include a reed bed within a wetland area. Also, proposals to include compensatory replacement of Heathland and Woodland (high value habitat of importance) were sought, These would be lost within the application site as a result of the proposed landfill operations. The replacement of these high important habitat features would be provided (conditioned/S106 in the event of an approval) within an area shown in control of the applicant, within the blue line.
- 5.3 Revised biodiversity metric calculation and a plan showing areas on and off-site were provided to accord with biodiversity metric calculation - received 10/02/20.
- 5.4 Draft S106 agreement for the long-term maintenance and management of the proposed on and off site biodiversity net gains - received 15/02/21
- 5.5 Additional statement requested by Officers, to set out consideration of Local Plan Policies LP43 and LP46.
- 5.6 Letter from PMW Quarries.co.uk stating local tipping facilities are required to reduce travel to sites outside Kirklees – received 18/03/21

## **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<sup>th</sup> February 2019).

### Kirklees Local Plan (2019):

- 6.2 LP21 – Highway Safety and Access  
LP28 – Drainage  
LP30 – Biodiversity and Geodiversity  
LP32 – Landscape  
LP33 – Trees  
LP37 – Site restoration and aftercare  
LP43 – Waste management hierarchy  
LP46 – Waste disposal  
LP52 - Protection and improvement of environmental quality  
LP53 – contaminated and unstable land

### 6.3 Supplementary Planning Guidance / Documents:

National Planning Policy for Waste 2014  
Kirklees Waste Needs Assessment 2016 (Growth Forecasts and Assessment of Future Capacity Requirements)

### 6.4 National Planning Policy Framework (2021):

Section 6 - Building a strong, competitive economy  
Section 13 - Protecting Green Belt land  
Section 14 - Meeting the challenge of climate change, flooding and coastal change  
Section 15 Conserving and enhancing the natural environment

## **7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application was publicised by site notices in the vicinity of the site, neighbour letters and an advertisement in the local press. This resulted in the receipt of 10 representations being received from members of the public including the Peak & Northern Footpaths Society. The issues raised can be summarised as follows:

### **Flooding/drainage private water supply:**

- Land adjacent to gully and drains are flooded in winter months
- Considerable water travels down the gully and collects within the site
- Proposed wetland area would be no different to current area of wetland on site
- Concerns, that water in the area could become contaminated and effect wildlife & humans including any properties served by natural spring water
- Could be disastrous if contaminants enter stream and rivers at Cat Clough

### **Impact on amenity and character of area:**

- Removal of drystone walls & felling of considerable number of trees prior to submission of application
- Loss of habitat to birds
- The provision of small area of agricultural land does not outweigh the detrimental impact on local wildlife including included protected species and their habitat/foraging from the loss of this gully/feature
- Tipping has taken place on site for the last 2 years consisting of clean fill, top soil and white goods
- Will effect the natural environment of the area and the green belt "to allow this further desecration of green belt land should not even be considered"
- The site is visible from surrounding public rights of way (PROW) & would affect public enjoyment and the safety of PROW users
- Noise, dust, odour and heavy traffic associated with this development would be detrimental to the amenity of the area.
- A detailed restoration scheme should be submitted indicating finished land levels and landscaping.

### **Highway/safety issues:**

- The local highway network does not have the capacity to cope with this proposal HGV's and access to site is on brow of hill could cause accidents.
- How will debris/mud on highway to be managed
- A new footpath or road widening the length of Hog Close Lane could help
- The proposed security arrangements (fence & signs) would be insufficient
- How will the infill operations, to ensure what is being deposited into landfill and vehicle trips be monitored?

**Other issues:**

- Concerns over accuracy of information within the private water supply report
- much development in our area; and this is another unacceptable commercial application being submitted
- Inconsistencies with the submitted information

Reference is also made to the reasoning given for a survey being undertaken by residents.

**Response:** Not aware of any survey undertaken by the Council.

Ward Councillors were advised of the proposals on receipt. To date, no comments or queries have been received.

**8.0 CONSULTATION RESPONSES:****8.1 Statutory:**

K.C. Highways DM – No objections subject to conditions

Environment Agency – No objections raised, although the EA advises an Environmental Permit would be required from the EA and that the proposed landfill activities must comply with the provisions of the Landfill Directive (99/31/EC). (A Footnote is to be included on the decision notice, providing a link to the website where full advice of the EA can be accessed)

Barnsley MBC – states that the proposed site is very close to several houses within the Barnsley Borough and asks the question “what proposals do the applicants have to mitigate the adverse effects from noise and dust from the development to the houses which are adjacent.  
(Addressed below under ‘Local amenity’)

**8.2 Non-statutory:**

K.C. Environmental Health – initial objection withdrawn, subject to restricting the hours of operation and conditioning the requirement of a reed bed along the course of the existing water course.

K.C. Biodiversity Officer – no objections on the basis of biodiversity net gain is achieved and the long-term maintenance and management of such areas be secured by S106. Welcomes additional compensatory woodland planting as suggested by Members at the March SPC meeting.

K.C. Lead Local Flood Authority – no objections subject to the suggested conditions.

**9.0 MAIN ISSUES**

- Principle of development (Green Belt & Waste Management/disposal)
- Supporting Rural Diversification
- Character and Appearance
- Ecological/biodiversity issues
- Local amenity
- Highway issues

- Private water supply
- Drainage/flood and ground stability issues
- Climate Change
- Representations
- Other matters

## 10.0 APPRAISAL

### **Principle of development - Green Belt**

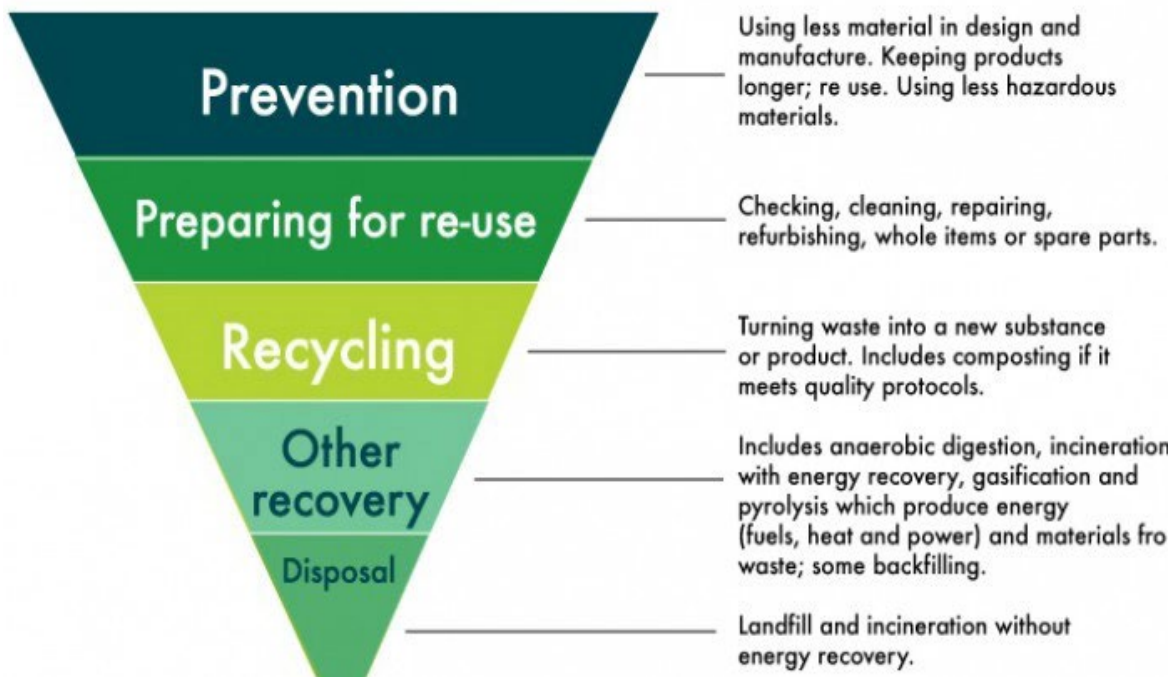
- 10.1 The application site comprises of agricultural pastureland and a void in the form of a gully, being natural habitat of high importance. The landfill proposals can be considered as engineering operations which would involve the importation of approximately 29,207m<sup>3</sup> of inert, clean demolition and topsoil (all waste) to re-profile and restore land to agricultural use.
- 10.2 It is not disputed, that due to the deep void and nature of the gully this prevents the full and proper working for agricultural use on this part of the site.
- 10.3 The starting point for the assessment of this application is Paragraph 150 of the National Planning Policy Framework (NPPF) which sets out amongst other forms of development that engineering operations is not inappropriate in the Green Belt, provided that they preserve its openness and do not conflict with the purpose of including land within it, being:
- a) to check the unrestricted sprawl of large built-up areas;
  - b) to prevent neighbouring towns merging into one another;
  - c) to assist in safeguarding the countryside from encroachment;
  - d) to preserve the setting and special character of historic towns; and
  - e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- as set out in paragraph 130 of the NPPF
- 10.4 The sectional drawings accompanying the application indicate the extent of profiling required to form the desired land levels after completely filling in the gully with waste materials. On completion, it is considered that whilst the proposals would take the effect of an engineered embankment at the northern end of the site, the final contouring after infilling would allow the site area to integrate with wider surrounding landscape of undulating fields. Views into the site from the north, looking back towards the site would, in time be mitigated by the off-site proposals to create an additional area of woodland, which is proposed to compensate for the loss of biodiversity interests as a result of the proposals (discussed in more detail below).
- 10.5 The applicant states the landfill and restoration proposals are to be carried out for no more than a period of 3 years, 6 months of which would be to restore the site. As set out above, it is anticipated that the proposal would generate an average of 96 HGV movements onto and off the site each week. The impact on highway safety is considered below, however it is important to assess the impact on the openness of the Green Belt from the length of time and level of activity to be carried out in association with the proposed development.

- 10.6 The NPPF indicates that openness and permanence are the essential characteristics of the green belt. There is no definition of openness in the NPPF. However, in a recent appeal decision (ref: 2018/94092, Emily Fields Liley Lane for restoration of derelict land for agriculture, involving importation of 90,000 tonnes of top soil and sub soil) which was reported at the Strategic Committee meeting on 23<sup>rd</sup> January 2020, the Inspector refers to openness, in the green belt context - "*it is generally held to refer to freedom from, or the absence of, development*". Comparisons can be drawn with that appeal and the application site proposals, in that both sites relate to engineering operations to be carried over a short period of time. The Inspector, in coming to his conclusion also took into account that during the carrying out of the engineering works, it would result in disruption to the landform and there would inevitably be an increased level of activity at the site and surrounding highway network, as a consequence of the associated HGV's. Nonetheless, the inspector concluded that the openness of the green belt would be preserved following completion of works.
- 10.7 Similarly, the proposals before Members are stated to be carried out over a short period (3 years), include engineering operations albeit after infilling the gully and on completion of restoration works, the openness of the site would be preserved.
- 10.8 Turning to the works proposed to the existing track, should Members be minded to approve the proposals, this could be conditioned to be returned to its original state on completion of land fill operations to ensure the openness of the Green Belt is preserved. Furthermore, in the interests of preserving the openness, should the application be approved, it would be reasonable to condition that the waste fill material brought onto site be used on arrival and not be stockpiled as was the case in the appeal noted above.
- 10.9 Taking all these factors into account, it is considered that the proposed development would involve engineering operations over a short period of time and as the openness of the Green Belt (subject to conditions) would be preserved, it is therefore, not considered to be inappropriate development in the Green Belt, nor would it conflict with the five purposes of including land within the Green Belt. The site is currently open and free from development, and this would continue on completion of the landfill, engineering and restoration works to be completed within a short period of time, in accordance with paragraph 150 of the NPPF.

#### **Principle of development - Waste Management & Disposal**

- 10.10 Turning to the management of waste, the National Planning Policy for Waste sets out its commitments to the aims for sustainable waste management which are summarised in the 'waste hierarchy' (see figure below). Although this indicates that the most effective environmental solution to the generation of waste is waste prevention, it also indicates that the re-use and recycling of materials are the next best options, with the least desirable and unsustainable solution being landfill disposal. This is echoed in Local Plan Policies LP43 (a) and LP46.

10.11 Waste Planning Authorities are therefore encouraged to take a positive approach towards dealing with waste in a way which moves its treatment up the hierarchy, by making provision for the management of various streams of waste, including inert and clean demolition waste material.



10.12 A lot of waste can be re-used and re-purposed. It is a way of moving it up the waste hierarchy instead of putting it in landfill. In this case, at the March SPC meeting it was reported that the proposals to dispose waste into landfill was at the bottom of the hierarchy. Further information has since been received which clarifies that the waste proposed to be deposited at the application site is

*“waste which would be used would be that element of construction, demolition and excavation (cde) waste that could not be recycled, which typically forms around 10% of the total volume of these types of waste. This is cde waste, which has been treated to remove all of the components such as brick, stone and concrete, that can be used as a recycled aggregate. The remaining component generally comprises dusts and clays which have no specific use other than as a general fill to be utilised on development sites and in land reclamation/improvement”*

10.13 On the basis that the waste to be deposited to landfill, is *“the remaining residues of construction, demolition and excavation waste”* this would be in compliance with the waste hierarchy and Local Plan policy LP43(a) as what is left cannot be recycled and would be considered as landfill.

**Consideration of safeguarded waste sites:**

10.14 With respect to the disposal of waste, to inform the Council on the Districts’ requirements, a comprehensive Waste Needs Assessment (WNA) was produced in 2016. This examines in detail the current quantities of waste generated and managed in the Kirklees district, the projected growth of waste to be managed over the plan period and the associated future capacity requirements, which forms the evidence base for Policy LP46.

10.15 As the proposals would result in waste disposal, Local Plan Policy LP46 states:

- Sites for disposal of waste will only be permitted where they cannot be met by treatment higher in the waste hierarchy;
- If it can be demonstrated that there is a proven need for additional landfill capacity because all other options are not suitable or feasible, this will be provided at existing or former quarry sites shown on the Policies Map;
- If all of these quarry sites are unavailable, land raising using inert materials only, may be considered provided it can be demonstrated that this would not divert material away from the restoration of any quarry void.

10.16 Although the information within the WNA was produced in 2016, it identifies sufficient land capacity for construction demolition and excavation waste through the allocation of safeguarded waste sites in Kirklees for the plan period and beyond. Following the deferral of the application at the March SPC meeting, to assist, the applicant was provided with a list of available sites that have capacity for construction demolition excavation waste at sites identified in the Kirklees Local Plan, which is fed into by relevant local authorities annually and produced by WYCA.

10.17 The following sets out the applicant's reasons for discounting waste safe guarded landfill sites that have capacity for construction demolition excavation waste, identified in the Kirklees Local plan, followed by officer's response to each reason.

*"of the 27 safeguarded sites identified in the Kirklees Local Plan only 5 of these sites are capable of receiving inert C, D & E waste arisings for landfill. These are:*

- *Wellfield Quarry*
- *Carr Hill Quarry*
- *Bradley Park Landfill*
- *Laneside Quarry (Landfill)*
- *Laneside Quarry (reclamation)*

*The remaining 22 sites are either recovery/treatment or transfer centres involved in the recycling process but not have the capacity for the final disposal to landfill".*

**Officer's response:** Accepted that the remaining 22 sites are either recovery/ treatment or transfer centres involved in the recycling process and do not have the capacity for the final disposal to landfill

With regards to the 5 sites capable of receiving inert C, D & E waste:

### **1. Wellfield Quarry**

*"Wellfield Quarry, is capable of taking the full range of C, D & E waste. However, this site is understood to have limited capacity and is not always open in the winter months. Furthermore, because it is the only available site, it finds itself in a monopoly position, free from competition and able to charge excessive tipping rates well above the market rate. This has the effect of forcing almost all of the residual C,D & E waste (i.e. that which cannot be recycled) outside of the district and in many cases outside of the region".*

**Officer's response:** No evidence has been submitted to substantiate that the site has limited capacity. The statement made contradicts the information

provided within the database that was sent to the applicant, which indicates there is an annual capacity of 41,100 tonnes until 2036. With respect to the site not being open in winter months, this is typical of most landfill sites in wet winter months, which results in unsafe ground conditions to allow for landfill operations to take place safely. In order for landfill to compact and take form appropriately, landfilling needs to be conducted outside extreme wet weather conditions. The price/rates charged for tipping is not a material planning consideration. On the basis of the above, it is considered that capacity remains at this site to take CD&E waste

## **2. Carr Hill Quarry**

*“Carr Hill Quarry operated by PMW is a closed gate site and has virtually no void space remaining. Hence the reason they are exporting all of their waste to Goole at present. Permission for this site ceases in 2022”.*

**Officer’s response:** PMW is the landfill contractor wishing to dispose of the CD&E waste at the application site at Hog Close Lane. Carr Hill Quarry benefits from an extant planning permission granted under 2000/90671, which is conditioned to cease mineral extraction and site to be restored to amenity woodland and grassland by August 2022. The restoration details, approved in 2011, under Condition 30 of the same permission would see the site completed near to the original land levels.

An application (2019/93039) which sought to vary the approved restoration proposal was refused in December 2019 on the grounds of harm to the Green Belt and the very special circumstances put forward were not considered sufficiently exceptional to clearly outweigh the harm that would be caused to the Green Belt by virtue of inappropriate development. The applicant, PMW quarries, did not appeal the decision.

Consequently, a further application (2021/91826) was received in May this year for almost an identical proposal to vary the previously approved restoration scheme, which ultimately seeks to introduce flat level areas within the site. A decision is pending on the application which will also be presented to Members on this agenda.

Whilst no survey details of the remaining landfill capacity have been provided, which relates to the approved land levels under the extant permission, the acting agent for this site has confirmed in writing that the overall remaining landfill capacity at this site is approximately 20,000 tonnes.

On the basis of the above, it is considered capacity remains at this site to take CD&E waste which would also enable the land levels of the site to be completed in accordance with the approved restoration details.

## **3. Bradley Park Landfill**

*“Bradley Park Landfill only accepts infrequent amounts of inert waste. This is specifically engineering materials does not include the full range of C.D & E waste”.*

**Officer’s response:** Bradley Park Landfill Site is a strategically important hazardous waste site, both for Kirklees and regionally. Operations across the UK use this facility to dispose of hazardous waste. The site can accept inert waste intermittently, however allowing non-hazardous waste on this site may affect the capacity over the Local Plan period and undermine its functionality as a hazardous waste site.



#### **4 & 5. Laneside Landfill & Laneside Reclamation**

*“Laneside Landfill & Reclamation is a closed gate site for use by Thomas Crompton Demolitions and currently does not have an appropriate permit.”*

**Officer’s response:** During a recent site visit, the operator verbally confirmed to officers that this is a closed gate site, in that it is only accessible and open to the operator/owner and not open to other waste contractors.

*“The other 5 sites are not available for the following reasons:*

**Forge Lane Dewsbury** – *not currently available to take waste. It is subject to a CPO for Huddersfield/Ravensthorpe railway improvements and its future is uncertain. No void space available”*

**Officer’s response:** Officers are aware that Network Rail (NR) has served a CPO to acquire the site temporarily to carry out improvements works. Whilst this can be a lengthy process, and the outcome of which is yet uncertain, the extant permission for this site allows extraction of minerals to cease and site to be restored within 10 years from implementing the permission. The supporting information refers to the end date to be 2024. In light of this, as the permission is approaching its end date, the restoration to achieve the approved land levels will need to be forthcoming imminently. In any event, whilst the future of this site is uncertain, if the site is to be acquired by Network Rail, the existing voids will need to be filled to enable Network Rail to start works on site.

It is noted, however, that the original planning application for this site (2012/92979) stated that 100,000 tonnes of imported quarry waste would be needed to restore this site. Other than the Environment Agency Waste Database which suggests that 61,000 tonnes of CDE have been deposited on the site, no other information has been forthcoming. In view of this, the discounting of this site has not sufficiently been demonstrated and it is estimated to have a remaining land fill capacity of 39,000 tonnes, in accordance with the extant planning permission.

**Hillhouse Edge Quarry, Holmfirth** - *this doesn’t have a permit. There will be no landfill until mineral extraction has completed. It is unlikely to be available in the next 10 years.*

**Officer’s response:** Three applications at Hillhouse Edge Quarry were determined at the October 2020 Strategic Committee. These allow for the continuation of mineral extraction and to restore the sites by December 2028, with restorations of the extended quarry to be completed by 31st December 2030. At the time these applications were considered it was acknowledged that the final restoration of the site would require the import of inert waste as the volumes of quarry waste were likely to be insufficient to bring the site back to original levels. The site has been restored in part, and will continue to be restored with the overburden and reject stone by backfilling. However, the full extent of importation of infill is unknown until mineral extraction has ceased and final restoration begins to achieve the approved land levels within the extended part of the quarry site after December 2028. Therefore, it is understood the site is not yet available for landfill in the short term.

With regards to there currently being no Environmental Permit, this is a separate matter to be resolved outside the remit of the planning process. The responsibility lies with the site operator/owner to obtain the relevant and necessary permit/licence from the Environment Agency and any other regulatory body/ies, prior to allowing the importation of waste/infill materials to the site. However, it is acknowledged the lack of the appropriate permit/licence may deter waste contractors to use the site for depositing of waste.

**Windy Ridge Quarry Holmfirth** – The supporting letter from MWP Planning on behalf of the PMW Quarries LTD, states “*this is a site belonging to one of my clients. It is an active quarry and will be unable to accept infill materials until quarry activity is completed*”. There is consent up until 2029 for mineral extraction. There is no Environmental Permit for landfill. The remaining capacity is 150,000 tonnes.

**Officer’s response:** Planning permission for this site requires the extraction of mineral to cease and site restored by 31 March 2028. Whilst it is acknowledged this is an active site, the only information forthcoming recognises that although 9 years has gone past since 2012, there still remains a significant quantity of mineral left to be removed. No details are provided indicating at what stage the operations are at, to assess whether the site is capable/ ready for the importation of waste in the short term. In view of this, the discounting of this site has not sufficiently been demonstrated which has landfill capacity of 150,000 tonnes remaining, in accordance with the extant planning permission.

With regards to there being no Environmental Permit, as stated above, this is separate matter to be resolved outside the remit of the planning process.

**Temple Quarry, Grange Moor** – *this site doesn’t have a permit. It is closed gate for Mone Bros Ltd only.*

**Officer’s response:** Confirmation is received that this site is “*likely to be a closed gate site*” and not generally available to waste contractors. However, having sought further clarity on this, it is advised this site is not a closed gate site and will intermittently accept landfill waste from other contractors, depending on the priced charged for tipping/per load, which as stated above is not a material planning consideration. Furthermore, waste has been imported to this site since 2016 with the highest amount being imported in 2018 (40,000 tonnes) but unfortunately, no further information is available. In view of this, the discounting of this site has not sufficiently been demonstrated.

**Peace Wood, Shelley** – *this site does not have a permit and will not receive inert waste until mineral extraction ceases. It has consent until 2032.*

**Officer’s response:** Confirmation is obtained by officers from the acting agent for this site, who advises mineral extraction and landfill can be done in tandem on this site. Therefore, it is not necessary for mineral extraction to cease before landfill operations continue/commence. Furthermore, it is established that the site owner/operator is in the process of obtaining the relevant permit licence from the Environment Agency.

Page 3, paragraph 5 of the supporting statement of relevant planning permission 2007/92989, sets out that the scheme will provide for a maximum of 50,000 tonnes per year. A pre application enquiry received this year in relation to this site, sets out in the supporting documents, that the eastern phases have already been infilled and restored in accordance with the relevant permission 2017/93602 (variation to 2007/92989), whilst the western phases are currently operational extracting mineral. In view of this information, the remaining landfill capacity at this site is approximately 30,000 tonnes per year. The discounting of this site has therefore not sufficiently been demonstrated.

*There are other potential landfill sites which are not included on the Local Plan Safeguarded List. These have been assessed along with the Local Plan discounted sites (Appendix 2). None of the 6 discounted sites are available to receive inert waste. This is confirmed.*

**Officer's response:** The information relating to the 6 discounted sites was provided to the applicant by officers. These sites have either been restored or close to restoration with no remaining capacity for landfill.

*The March Committee report in paragraph 10.23 refers to nearby active mineral workings, namely Ox Lee (2013/70/92388/WO), Appleton 2017/70/92300/EO) and Sovereign (2018/70/91605/EO). None of these quarries are currently available for landfill. They do not have environmental permits for landfill and nor do they have planning permission for landfill.*

**Officer's response:** The extant permissions for these quarries do not allow the importation of landfill material to these sites.

***Applicant's summary:***

*It is therefore clearly evident that there is a significant shortage in capacity for C,D & E waste in the short-medium term and this is likely to persist for the next 10 years until various quarries reach the end of their productive lives. Furthermore, the lack of competition is adversely affecting the market price and is forcing waste contractors to travel long distances to dispose of waste outside the region.*

*The capacity in Kirklees District is negligible but the waste from construction, development and excavation sites accounts for 293,000 tonnes of waste each year (based on the 2014/2015 figures in the Kirklees Waste Needs Assessment (2016). This represents 33% of all waste in the district, and although a significant proportion of this can be recycled much of the waste (silts, sludge and clays) have no beneficial use and much be disposed of inert landfill sites. Hog Close Lane has a capacity for 29,000 cubic metres of inert waste (approximately 40,000 tonnes) and is estimated to take 3 years to fill. This equates to 13,333 tonnes per year. This is only a fraction of the capacity required. Furthermore, it will only provide a short- term solution and additional landfill sites will be required in the medium term to provide adequate capacity a, and in the short term to provide healthy competition”.*

**Officer's response:** The applicant has failed to demonstrate with evidence that there is a proven need for additional landfill for CD&E waste, and that it would not divert material away from the restoration of any quarry void.

In summary, the applicant is seeking to deposit 40,000 tonnes and the table below sets out where available, the Officers assessment of annual capacity at each of these waste safe guarded sites.

<b>Waste safeguarded sites with remaining landfill capacity</b>	<b>Annual/remaining or total Capacity (tonnage)</b>	<b>Permission end date</b>
Wellfield Quarry, Crosland Moor	41,100 annual capacity	Oct 2027
Carr Hill Quarry, Upper Cumberworth	Approx. 20,000 remaining landfill capacity	Aug 2022
Forge Lane Dewsbury	39,000 tonnes	2024
Windy Ridge Quarry, Holmfirth	150,000 tonnes total capacity remaining	March 2028
Temple Quarry, Upper Hopton	Information unavailable (See above paragraph relating to Temple Quarry)	Application to extend time pending decision
Peace Wood, Shelley	30,000 annual capacity	Oct 2032

The information in the table above is obtained from a number of sources including, relevant planning history of the sites, the Waste Data Interrogator provided by the Environment Agency and acting agents of some of the sites.

- 10.18 The March and July SPC agendas set out the applicant's claim regarding the agricultural business needs in which it was stated "*this is not a commercial waste operation*", and it will enable the applicant "who is a farmer" to use the land for productive farmland. Although agricultural farmland takes many forms, it is not disputed that the end result would make the application site area more productive for farmland/maintenance in comparison to its current form. Despite officer's request for evidence of the farming business, none has been forthcoming to demonstrate a genuine need, to substantiate the applicant's case, in that the proposals would be critical to the applicant's agricultural business needs. (i.e. how will not obtaining permission for the proposed landfill operations be detrimental to the applicant's existing agricultural business)
- 10.19 To conclude, the information submitted fails to sufficiently demonstrate with evidence the genuine need for use of this site for landfill operations that is critical to the applicants existing agricultural business, prior to the use of allocated safeguarded waste sites, for which there is a sufficient capacity for the plan period and beyond. With regard to Local Plan Policy LP46, it is considered the applicant has not sufficiently demonstrated or justified why all other options are not suitable or feasible and that this proposed landfill operation would not divert material away from the restoration of any quarry void. Sufficient land capacity remains for construction demolition and excavation waste through the allocation of safeguarded waste sites in Kirklees for the plan period as shown in the table above at paragraph 10.17.

### **Supporting rural diversification**

- 10.20 The additional statement received on 11<sup>th</sup> March 2021, introduces a case with reference to Local Plan Policy LP10 (f) which specifically relates to Supporting the rural economy. Point (f) of the Policy LP10 states:

*f. supporting farm diversification schemes, where the proposal would not adversely affect the management and viability of any farm holding, and in the case of farm shops, the goods to be sold are primarily those which are produced on the host farm or neighbouring farms.*

- 10.21 The NPPF and Local Plan Policy LP10 seeks to support a prosperous rural economy. The proposals would not adversely affect the management and viability of any farm holding, as on the contrary it would provide financial gain for the applicant. Whilst it could be argued that the proposal would allow diversification of the applicants' farm business, by utilising land that currently may have no useful purpose for agriculture and would represent a more efficient use of the land, it is not considered to be farm diversification in its true sense of this Policy.

### **Character and Appearance**

- 10.22 The site is located within an area which is largely rural in character consisting of wooded areas, in depressions and on varying contours, rolling fields of open farmland with pockets of residential and agricultural buildings. Whilst it could be argued that the gully within the site is formed by previous colliery works, it has over time established landscaping and forms a distinguished feature which contributes to the rural setting of the area. The proposed contour levels as shown on drawing no. EWE/2078/01 Rev C would ensure a transitional slope and allow the continuation of rolling fields (which is only one form of agricultural land use) from one field to the next. In addition, the restoration proposals for the whole of the site, by returning it to grassland would ensure the site, over time, integrates with the wider surrounding character of rolling open fields, in accordance with Policy LP32 of the KLP.
- 10.23 To mitigate the potential effect of the proposed engineered operations, particularly when looking back at the site from the north, negotiations have resulted in the requirement of creating a new woodland area, immediately beyond the northern boundary. This is shown on drawing titled 'Fig A Compensation Proposals' and would be on land in the control of the applicant. The new woodland area would also contribute to the overall biodiversity net gains to be achieved (discussed further below). Should Members be minded to approve the application, this matter could be dealt with by condition and the long term maintenance and management of such areas will be secured through a S106 agreement.

### **Ecology/Biodiversity issues**

- 10.24 Policy LP30 of the KLP refers to Habitats of Principle Importance (those habitats listed under the provisions of Section 41 of the Natural Environment and Rural Communities Act 2006), which occur within the proposed footprint of the works and would be lost as a result of the proposals. These habitats include the woodland within the site (marked as TN1 within the EclA report) and the heathland within the site (marked as TN8 within the report). Policy LP30 requires proposals to protect these habitats 'unless the benefits of the development clearly outweigh the importance of the biodiversity interest, in which case long term compensatory measures will need to be secured.
- 10.25 *Kirklees Wildlife Habitat Network* - The proposals would also result in the loss of approximately 0.6ha of the Kirklees Wildlife Habitat Network.

- 10.26 The Council seeks a net biodiversity gain of on development sites and aims towards 10%. This can either be through the detailed landscaping scheme and/or off-site enhancement – on land owned by the developer.
- 10.27 The Biodiversity Metric calculation was submitted during the course of the application as the method to demonstrate a measurable biodiversity net gain in accordance with Policy LP30(ii) and NPPF. The information presented has now addressed previous objections raised by the Council's Ecology unit. The proposals as revised would include both on and off-site habitats, as set out in the metric and drawing titled 'Fig A Compensation Proposals', which indicates 0.75ha of Heathland restoration, 0.1ha reed bed filtration, creation of 0.14ha of woodland and on site restoration of neutral grassland. In summary, the Council's Ecology unit, notwithstanding the loss of a 'small terminal section' of the KWHN, which is considered does not represent harm to the function and connectivity of the network, is satisfied on the basis that the previous proposals put forward would provide a net biodiversity gain of 17.86%
- 10.28 At the March SPC, a request was made by Members for additional tree/ woodland planting above the agreed net biodiversity gain set out in paragraph 10.27. Initially the applicant requested to trade the previously proposed creation of Heathland with woodland, which is not accepted by the Biodiversity Officer, as the request was made to increase additional tree/woodland planting and not omit compensation for the loss of heathland habitat on site. The July SPC update sets out the full reasoning as to why the trade-off to omit compensation for the loss of heathland habitat is not acceptable. In view of this, the applicant confirmed that they would keep the previously approved biodiversity net gain and would supplement this with an additional 0.14 Ha of woodland planting.
- 10.29 In light of the above the submitted biodiversity metric calculation would need to be updated to include all the compensatory proposals now agreed, which would need to be secured through a Section 106 agreement in accordance with Policy LP30 should the application be approved. Whilst a draft S106 and long-term maintenance and management plan was received and considered by both the Council's Ecology Unit and Legal Officers, these too would need to be amended/updated in view of the increased compensatory proposals in the event of an approval. The applicant is aware and agreeable to this. Subject to the long-term maintenance and management plan demonstrating the security of the ecological being provided on and off site, biodiversity matters would be addressed sufficiently. Should Members conclude that the benefits of the development outweigh the existing biodiversity interests of the site, the compensatory proposals put forward would address this matter.

### **Local Amenity**

- 10.30 At present the site comprises two fields of open pasture divided by a deep steep sided clough. This provides a pleasant rural setting within the wider area. Public Right of Way (PROW) Hol/134/20 runs to the north of the site, and this would allow users of this route views of the site at relatively close quarters and be affected to some extent by the proposed works. This PROW links with other PROWs in the area and it is considered that the surrounding landscape enhances the experience of users of this route and therefore acts to attract walkers and visitors to the area, providing an attractive recreational facility. The proposals would be carried out over a period of 3 years, which can be deemed a short period in terms of landfilling and as such it is considered that the proposed works would not prejudice the function and continuity of the core walking routes, in accordance with KLP Policy LP23.

- 10.31 With regards to waste being transferred to the site by HGV's including open skip and tipper lorries. This would inevitably result in additional noise generated by the vehicles themselves and during the unloading and working of the waste. The nearest residential properties are located between approximately 200 to 250 metres away from the proposed development. To mitigate against any associated impact and to protect the amenities of nearby residents from any potential noise/disturbance during unsociable hours, conditions could be imposed restricting the number of vehicle movements (in and out of the site per day) and hours of operation in accordance with those suggested by the Environmental Health Officer. Consequently, subject to the imposition of such conditions, the proposal would accord with KLP Policy LP24 and Section 11 of the NPPF with regard to potential noise nuisance.
- 10.32 The potential emissions of dust to the atmosphere from tipping and landform operations such as those proposed at the application site would arise from three main sources:-
- Vehicle movements to and from the site;
  - Operational processes including the tipping of waste and its subsequent working and placement and compaction;
  - Exhausts from operational plant/equipment.
- 10.33 The degree to which significant dust emissions are capable of causing nuisance from a particular site depends upon various factors, including:
- Time of year and climatic conditions, with dry conditions and high wind speeds being conducive to dust generation.
  - Surface characteristics, with vegetation cover making material in bunds less susceptible to dispersion
- 10.34 However, it is considered that problems associated with dust could be adequately dealt with through the implementation of measures on site which could include:
- All lorries delivering waste to the site being sheeted
  - Internal haul routes would be defined and dampened as necessary
  - Upswept exhausts used on site vehicles
  - Dampening of surface of filling areas when necessary
  - The suspension of operations in extreme windy conditions
  - Speed restrictions on site
- 10.35 To summarise, should Members be minded to accept the principle of development in terms of waste disposal, the above suggested measures could be required via appropriately worded dust suppression planning conditions, to comply with KLP Policy LP52 as well as guidance contained in Section 15 of the NPPF,

## Highway issues

10.36 DM Highway Officers initial assessment is set out below:

*“that access is to be taken from an existing track off Hogg Lane that serves the application site. The access is to be upgraded to incorporate 7m radii and realigned to allow a 21m straight alignment for vehicles to pass. The access will be widened to 8m in width. The geometric characteristics are considered acceptable and the proposal is acceptable in this regard. Internally to the site a turning head for large vehicles is proposed.*

*The application is supported by swept-path analysis of large vehicles passing and being able to access and exit in a forward gear. Visibility splays and the location of the proposed gate are also demonstrated on drawing no. MJC 172-05E (as a consequence of further revisions, this plan is superseded by drawing MJC 172-05G).*

*It should be noted that the council’s Highway Safety department raised concerns regarding the suitability of the local road network. However, given the proposals would produce around 16 vehicle movements per day, and for a temporary period of 24-30 months, Highways DM feel that the proposals are acceptable on balance. These proposals remain acceptable from a highways perspective, and Highways DM wish to raise no objection to the scheme. No specific conditions are deemed necessary.*

10.37 As set out above, it is anticipated the proposals would generate an average of 96 HGV movements per week. It is considered reasonable and necessary to restrict the number of HGV movements (by condition) in and out of the site to those proposed, (8 in and 8 out, 16 in total a day).

10.38 Taking account of the Council’s Highway Safety department, DM Highway Officers’ follow up advice is that a pre commencement condition requiring a survey which highlights the existing condition of the highway Hog Close Lane should be imposed in the event of an approval. The condition would require the applicant to monitor the condition of Hog close Lane , before development is commenced, followed by subsequent annual monitoring until completion of the proposal. In the event that the proposal resulted in any defects to Hog Close Lane, a scheme to reinstate the defects would be required to be carried out at the expense of the applicant. The applicant is agreeable to this. On site wheel wash facilities would also need to be conditioned to prevent HGVs depositing material on the highway.

10.39 Hog Close Lane falls within Barnsley District and therefore any remedial works required to Hog Close Lane as a result in defects caused by the use of HGV’s in association with the proposals, would need to be approved by entering into a Section 278 agreement with the relevant Highway Authority..

10.40 It is therefore considered, subject to appropriate conditions being imposed in the event of an approval, and the proposals being carried out over a period of 3 years (of which 6 months for restoration), that this development would accord with KLP Policy LP21 with regards to its impact on the local highway network.



### **Private water supply**

- 10.41 Council historic maps for the valley indicate that the area proposed to be filled is spring fed, which is typical of watercourses in the area. This was not fully captured in the applicant's initial design or reports. Significant concerns were also raised by Environmental Health Officers regarding the sourcing and composition of the infill matter and the effect it could have on nearby groundwater and surface waters, on the private water supplies downstream from the site in question that may be affected.
- 10.42 According to records, nearby properties could potentially be served through these private water supplies. At the request of the Council details of a hydrology survey undertaken on behalf of the applicant has been received during the course of the application. This identifies private water supplies in the immediate area, so that the potential impact of the development could be considered. This survey checked 31 properties and of these, 5 had private water supplies. Of these 5, only one is still claimed to be used and the other 4 have converted to mains supply. The remaining private supply has already, or is in the process of being abandoned, and capped. An assessment of the potential impact of the development has now been completed and for completeness, the potential impact on the private supplies was assessed as part of the survey.
- 10.43 The survey states that the infilling of the gully should not contain any soluble contaminants and the springs feeding the clough are to be diverted round the filled site. This would reduce the risk of pollution of private water supplies. In addition, water arising from the site is proposed to be drained separately and passed through a reed bed and ponding area as shown on drawing no. MJC 172-P07 dated September 2019. It is acknowledged that the 'inert' fill should not contain any biodegradable matter and as advised by the applicant, the reed bed is purely there as a safeguard mechanism to extract any bio-degradable matter that might escape the waste screening and certification process. The reed bed and ponding area will ensure that all suspended solids are removed, and the reed bed will treat any biodegradable matter. It is concluded that the filling of the gully will have minimal or no impact on the private water supply to neighbouring properties
- 10.44 Subject to the provision of the reed bed being formed and installed to protect the groundwater from any potential contamination associated with the infill, Environmental Health Officers would have no objection. The applicant is amenable to this, and it could be addressed by a pre-commencement condition, in the event the application is approved, in accordance with KLP Policy LP52 and guidance within the NPPF.

### **Drainage/flood and ground stability issues**

- 10.45 The LLFA consider the information provided regarding the proposed drainage systems, (which will comprise of a series of perforated pipes within the landfill area, diversion of the existing surface water course and formation of reed bed/wetland areas) is sufficient in principle. Subject to further design, calculation and phasing, which could be secured by the suggested conditions set out in the consultation response from LLFA dated 4<sup>th</sup> June 2020, drainage and flood matters could be addressed to accord with KLP Policy LP28 and guidance in the NPPF.

- 10.46 With regards to ground stability, water management on steep slopes can be a fundamental issue and should be considered particularly when introducing new material, such as is proposed. The design needs to consider the geotechnical suitability of the proposals including interaction with existing ground, reinforcement required of the retaining face to prevent mobilisation and potential for settlement and any ground preparation required. The operation of plant and weight of material could lead to mobilisation of sediments which needs to be assessed.
- 10.47 Paragraphs 183 and 184 of the NPPF set out clearly that where a site is affected by land stability issues, responsibility for securing a safe development should rest with the developer and/or the landowner. Moreover, any proposals should be accompanied by adequate site investigation information, prepared by competent person taking into account of ground conditions and any risks arising from land instability.
- 10.48 The LLFA does not generally lead on geotechnical considerations. However, due to the interaction with the watercourse, in this instance it was a matter for consideration. Given the high risks, Officers considered it necessary to request a full geotechnical site appraisal to establish whether the proposed methods would be suitable and safe before the principle of such works was considered acceptable, and to ensure such works could be deliverable without potential harm to people or the environment, in accordance with KLP Policy LP53. The geotechnical report has been independently assessed on behalf of the Council. The outcome of which concludes that further technical information would be required, including an intrusive ground investigation report, a method statement for the proposed valley reprofiling and details of proposed gravity earth bund on face of landfill, prior to development commencing. These could be addressed by pre-commencement conditions in the event that the application were approved. Subject to the works being carried out in complete accordance with the recommendations in any subsequent reports, the issue of ground stability could be addressed, in accordance with KLP Policy LP53 and guidance within the NPPF.

### **Climate Change**

- 10.49 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.
- 10.50 Uncontrolled release of greenhouse gasses from traditional waste disposal methods are inextricably linked to climate change. Crucially, in order to adapt to and mitigate against climate change impacts, the management of waste will need to be considered further up the waste hierarchy before consideration of disposal through landfill, which is the least sustainable way to manage waste. In this instance the waste to be deposited to landfill, as set out above is stated to be "remaining residues of construction, demolition and excavation waste" as

such this contributes to meeting the objectives of reducing the release of greenhouse emissions into the atmosphere, in accordance with the Councils and Government guidance.

## **Representations**

### **10.51 Flooding/drainage private water supply:**

- Land adjacent to gully and drains are flooded in winter months
- Considerable water travels down the gully and collects within the site
- Proposed wetland area would be no different to current area of wetland on site
- Concerns, that water in the area could become contaminated and effect wildlife & humans including any properties served by natural spring water
- Could cause contamination or enter stream and rivers at Cat Clough

**Response:** Addressed in preceding paragraphs. Regarding the potential contamination, this would be limited as the proposals would use inert material/waste.

### **10.52 Impact on amenity and character of area:**

- Removal of drystone walls & felling of considerable number of trees prior to submission of application

**Response:** Noted.

- Loss of habitat to birds
- The provision of small area of agricultural land does not outweigh the detrimental impact on local wildlife including included protected species and their habitat/foraging from the loss of this gully/feature
- Will affect the natural environment of the area and the green belt “to allow this further desecration of green belt land should not even be considered”
- The site is visible from surrounding public rights of way (PROW) & would affect public enjoyment and the safety of PROW users
- Noise, dust, odour and heavy traffic associated with this development would be detrimental to the amenity of the area.

**Response:** addressed in preceding paragraphs

- Tipping has taken place on site for the last 2 years consisting of clean fill, topsoil and white goods

**Response:** See Enforcement notes above, under section 4 of the report

- A detailed restoration scheme should be submitted indicating finished land levels and landscaping.

**Response:** A detailed restoration scheme to include finished ground levels can be secured by planning condition should planning permission be granted.

### **10.53 Highway/safety issues:**

- The local highway network does not have the capacity to cope with this proposal HGV's and access to site is on brow of hill could cause accidents.
- How will debris/mud on highway to be managed

**Response:** addressed above.

- A new footpath or road widening the length of Hog Close Lane could help

**Response:** On consideration of the proposals, Highway Officers have not deemed such provisions necessary in this instance.

- How will the infill operations, to ensure what is being deposited into landfill and vehicle trips be monitored?

**Response:** The applicant would need to obtain an Environmental Permit from the Environment Agency to ensure that the proposed landfill activities comply with the provisions of the Landfill Directive (99/31/EC). The vehicles trips can be restricted by condition.

10.54 **Other issues:**

- Concerns over accuracy of information within the private water supply report

**Response:** A revised Private water report was received (January 2020) and publicised on the website. No new representations were received in relation to this matter.

- much development in our area; and this is another unacceptable commercial application being submitted

**Response:** noted.

- Inconsistencies with the submitted information

**Response:** noted

10.55 With regards to odour issues, the proposal would involve inert waste only and problems associated with odours would not therefore be an issue.

**Other Matters**

10.56 Whilst potential land stability issues and flood risk, as a result of the proposals, are addressed above, the additional information submitted received 11<sup>th</sup> March 2021, introduces claims in support of the applicant's proposals which states:

*"The gully (formed by previous mining activity) is unstable and suffers from erosion. It also poses a hazard to livestock and farm operatives...The exposed clay and shale and the steep sides of the gully also lead to rapid water run-off into local watercourses and into the river system. Filling the void and restoring the site to agricultural use will remove this hazard in accordance with Policy LP53."*

10.57 The submitted geotechnical report (sections 6.2 and 6.3) concludes that the risk of ground water flooding at the site is negligible and that based on the topography of the surrounding area, surface waters would be expected to drain towards the various surface water courses which lie in the bottom of the respective valley features. With respect to the impact on surrounding watercourses from the proposed landfill operations, the drainage scheme proposed would ensure and alleviate concerns, removing the risk of contributing to localised flooding downstream.

10.58 With respect to the gully being stated to be unstable and suffering from erosion, the geotechnical report does identify 'indicative small-scale ground movements/slippages'. However, the report also states *"it is likely these have resulted due to the steepness of the existing valley sides and soil erosion by*

*surface waters flowing down the valley sides*". It must be noted that the geotechnical report was commissioned for the reason set out above, in paragraph 10.54, to demonstrate that there would be no concerns in relation to ground stability as a result of the proposed development, not to address any instability land issues, which pose a risk to the environment or people.

- 10.59 Finally, to address concerns in relation to the site "*posing a hazard to livestock and farm operatives*" appropriate fencing (stock proof/dry stone) or walling can be considered. In any case, it is recognised that farmers/operators of the site will have a duty of care to ensure appropriate measures are in place to protect the welfare of animals and anyone using the site under health and safety and other relevant regulations in which they will be required to adhere to.

## **11.0 CONCLUSION:**

- 11.1 The National Planning Policy for Waste sets out its commitments to the aims for sustainable waste management to take a positive approach towards dealing with waste in a way which moves its treatment up the 'waste hierarchy'. The Council's Waste Needs Assessment (WNA) has been produced, which details the quantities of waste generated and managed in the Kirklees district, the projected growth of waste to be managed over the plan period and the associated future capacity requirements. As set out in the report above there is sufficient landfill capacity within existing quarries/waste safe guarded sites to accommodate the waste proposed for landfill operations on this site. The proposals are therefore recommended for refusal for the reason set out in the recommendation.

### **Background Papers:**

Application and history files: set out in the above report under sub-heading 'Relevant Planning History'

Website link to be inserted here

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f93676>

Certificate of Ownership –Certificate A signed by the agent on behalf of the applicant

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

Date: 16-Dec-2021

**Subject: Planning Application 2021/91700 Erection of extension to vehicle workshop, engineering operations to excavate and regrade land, formation of extensions to car park and external yard areas, erection of 2.4m high security fencing, external lighting and temporary construction access MAC's Truck Sales Ltd, Crosland Road, Lindley, Huddersfield, HD3 3ZA**

#### APPLICANT

Adrian McDade, MAC's  
Truck Sales Ltd

#### DATE VALID

07-May-2021

#### TARGET DATE

06-Aug-2021

#### EXTENSION EXPIRY DATE

30-Nov-2021

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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

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**Electoral wards affected: Lindley Ward**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**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 MAC's Truck Sales Ltd is a well-established HGV manufacturer offering a bespoke service of in-house purchasing, production and aftersales care. In 2017, the headquarters of the business was relocated to a new site on the west side of Crosland Road, taking advantage of the proximity to Junction 24 of the M62 following approval of reserved matters application 2016/90613.
- 1.2 This full planning application has been submitted seeking the erection of an extension to the vehicle workshop, engineering operations to excavate and regrade land, formation of extensions to car park and external yard areas, erection of 2.4m high security fencing, external lighting and a temporary construction access.
- 1.3 It is brought to the Strategic Planning Committee in accordance with the Council's Scheme of Delegation as a non-residential development with a site area in excess of 0.5 hectares.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site is a part of the wider Local Plan allocation MX3 and has a total area of 3.22 hectares, of which 1,764 m<sup>2</sup> is covered by the existing vehicle workshop and adjoining two storey office block. To the west of the workshop and office building is an area of hardstanding used primarily for the storage of HGVs. To the south is a dedicated car parking area for staff and visitors. The eastern and northern portion of the site remains undeveloped and is not currently utilised by the business but is within their ownership.
- 2.2 To the immediate east of the vehicle workshop and outside the operational boundary of the MAC's Trucks site is a Grade II listed monument known as Haigh Cross (list entry no. 1134307). Directly north of this monument and close to the road junction between Lindley Moor Road and Crosland Road is a Grade II\* listed Guide Stoop (list entry no. 1403442).
- 2.3 In addition to this, a series of archaeological investigations have confirmed the presence of a Roman road at the northern end of the site, running parallel to Lindley Moor Road. Full details of this feature and past archaeological investigations are contained within the accompanying Archaeological Assessment.



### 3.0 PROPOSAL:

- 3.1 This application seeks full planning permission to extend the existing workshop northwards, adding 708 m<sup>2</sup> of additional floor space in the form of 6 new vehicle bays, while also relocating the existing paint spray booth into the new extension. The size, style and materiality of the proposed extension is proposed to match and integrate with the existing building. The existing building is used as a workshop and office with the surrounding hard standing having a sales function concurrent with its use for the purpose of vehicle storage and manoeuvre. The Use Class of the site is determined to be B2 General Industrial with an ancillary Office (Class E(g)(i)) component.
- 3.2 Alongside the extension of the workshop, it was initially proposed to create 5,717 m<sup>2</sup> of new yard area and 1,047 m<sup>2</sup> of additional car parking. The yard area has since been revised down by approximately 10% in area to 5,433 m<sup>2</sup>. The new yard area would be located in two main sections to the north of the existing area of hardstanding and to the east of the proposed workshop extension. The new car parking area is to be comprised of 18 staff vehicle spaces and would line the southern/western boundary of the site, on the south side of the existing site access road. A vehicle washing facility with rainwater harvesting is proposed on the hardstanding between the eastern elevation of the extension and Crosland Road.
- 3.3 The proposed workshop and yard area extensions would necessitate the reconfiguration of the existing 2.4m high green mesh perimeter fencing. This is proposed to be carried out in conjunction with an integrated scheme of soft landscaping and new planting, intended to improve the overall appearance of the development and enhance the immediate setting of the identified heritage assets. Full details of the proposed landscaping and ecological enhancements are contained within the Landscape Visual Appraisal and Biodiversity Net Gain Assessment.

### 4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 **2014/62/93136/W** – Demolition of existing buildings, Outline application for Industrial Development (Class B1c B2 or B8) Plot A – (160,000 sq ft./14,864 sqm) with engineering works to form development plateaux, formation of access from Lindley Moor Road, provision of services and drainage infrastructure. Erection of industrial unit. Plot B – (50,000 sqft/ 4648 sqm) unit access from Crosland Road Detailed application (Plot C) for residential development of 252 dwellings with access from Crosland Road, engineering works to create underground attention, provision of open space and landscaping. – Granted
- 4.2 **2016/61/92870/W** – Reserved matters application pursuant to permission 2014/93136 for demolition of existing buildings, Outline application for Industrial Development (Class B1c B2 or B8) Plot A – (160,000 sq ft./14,864 sqm) with engineering works to form development plateaux, formation of access from Lindley Moor Road, provision of services and drainage infrastructure. Erection of industrial unit. Plot B – (50,000 sqft/ 4648 sqm) unit access from Crosland Road Detailed application (Plot C) for residential development of 252 dwellings with access from Crosland Road, engineering works to create underground attention, provision of open space and landscaping. – **Granted** – The industrial

unit has been completed and is operational, however many aspects of the landscaping scheme remain unfinished. However full site details in respect of hard and soft landscaping are covered under this application.

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

- 5.1 Following negotiations, the proposal has been amended to reduce the impact on the listed structures through alterations to the hard and soft landscaping features of the site as well as revisions to the scope and location of proposed boundary treatments.
- 5.2 The amendments included reductions to the size of the proposed yard to provide a slight buffer to the east, re-location of the green v-mesh perimeter fence lower down the slope relative to views from Lindley Moor Road so that it is less visible. A stile has also been proposed in the boundary wall to allow public access to Haigh Cross, with an interpretation plaque proposed on the stone boundary wall adjacent to the Cross. A further alteration to the scheme sees the stone boundary wall re-built around the north-east corner of the site in order to reinstate the historic field boundary and create a backdrop for the listed Stoop.
- 5.3 Officers sought to re-locate the free-standing advertisement for MACS adjacent to the Stoop, however this has been resisted by the applicant given that its location has been subject to an approved advertisement consent application.
- 5.4 Further minor amendments were sought and have subsequently been provided by the applicant in respect of a revised planting plan to include a greater number of half-standard native trees within the scrub mix. This was requested to make an initial visual impact following development and to provide some level of mitigative screening to the new planting areas whilst smaller species develop and gain greater height.
- 5.5 It has also been agreed with the applicant that a condition should be added to provide a lighting scheme for the adjacent PROW footpath (HUD/408/10) agreed with KC Public Rights of Way to enable and encourage sustainable forms of transportation throughout the year, particularly in winter.

## **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<sup>th</sup> February 2019).

### Kirklees Local Plan (2019):

- 6.2 The application site forms part of a Mixed Use allocation in the Local Plan (site allocation MXS3). MXS3 relates to an area measuring 32.16 hectares with an indicative capacity of 41,702m<sup>2</sup> of employment floorspace and 443 dwellings.

6.3 The following policies within the Local Plan are most relevant to the assessment of this application:

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  
LP8 – Safeguarding Employment Land and Premises  
LP9 – Supporting skilled and flexible communities and workforce  
LP20 – Sustainable travel  
LP21 – Highways and access  
LP22 – Parking  
LP24 – Design  
LP26 – Renewable and low carbon energy  
LP27 – Flood risk  
LP28 – Drainage  
LP30 – Biodiversity and geodiversity  
LP32 – Landscape  
LP34 – Conserving and enhancing the water environment  
LP51 – Protection and improvement of local air quality  
LP52 – Protection and improvement of environmental quality  
LP53 – Contaminated and unstable land

Supplementary Planning Guidance / Documents:

6.4 Relevant Guidance and

- Biodiversity Net Gain – Technical Advice Note (2021)
- Highway Design Guide SPD (2019)
- Development on Land Affected by Contamination – Technical Guidance (2017)

Regional Planning Guidance:

6.5 Relevant guidance and documents are:

- West Yorkshire Low Emissions Strategy and Air Quality and Emissions

National Planning Policy and Guidance:

6.6 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 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

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

### Climate change

6.8 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.

## **7.0 PUBLIC/LOCAL RESPONSE:**

7.1 In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO), the application was originally advertised as a major development by means of three site notices on 10/05/2021, an advertisement in the local press on 28/05/2021 and by direct neighbour notification to adjoining properties.

7.2 As a result of this consultation, eight letters of representation were received, redacted versions can be found on the council’s website and the concerns raised are summarised below:

- The surrounding area adjacent to MACS factory is an eye sore of overgrown grass. The surrounding area should be landscaped to make the area tidy and to reduce the view of the factory while at the same time enabling their brand to look more professional and maintained.
- The extension will increase the size of the building making it ‘massive’ and will further compromise the resident’s view.
- MACS add to the noise pollution of the area, are a noise nuisance and generally negatively impact the environment of the local area as they leave the trucks running and emit a tannoy at unsocial hours (5.30am).
- Cranes are regularly extended on the site, which negatively affects the appearance of the local area.
- A fallout pipe emits surface water from the site over a footpath and Crosland Road leaving the footpath constantly wet and it is an ice risk in winter.
- Common theme of the development being an ‘eyesore’.
- Loss of greenspace to the proposed development as well as to the cumulative development of previously approved commercial units adjacent.
- Financial impact on houses/house prices next to the site.
- Negative impact of fences on the site in respect of views being ruined.

- Development has already commenced without permission enabling large vehicles to be parked close to the representor's property and be visible from their property due to the southern car parking area being used for HGVs instead.
- Increase in traffic and disruption of residential area.
- HGV's left with their engines on idle creates an air quality issue across the south western footpath. Concerns raised in respect of the impact upon respiratory issues and allergies for adjacent housing. Suggestion made for trees to be planted to absorb the fumes or for a concrete barrier to be erected to contain the fumes on site.

## 8.0 CONSULTATION RESPONSES:

### 8.1 Statutory:

**KC Highways:** No objections subject to condition

**KC Highway Structures:** No objections subject to condition

**Highways England:** No objection

**Local Lead Flood Authority:** No objections subject to conditions

**Yorkshire Water:** No objections subject to conditions

**Historic England:** Seek views of KC Conservation section

**The Coal Authority:** No objections subject to conditions

**Calderdale MBC:** No response

### 8.2 Non-statutory:

**KC Waste Strategy:** No response

**KC Environmental Health:** No objections subject to conditions

**Yorkshire Wildlife Trust:** No response

**The National Amenity Societies:** No response

**KC PROW (Footpaths):** No objections

**KC Building Control:** Advisory/Footnote comments provided.

**KC Crime Prevention:** Advisory/Footnote comments provided.

**KC Trees:** No observations

**Huddersfield Civic Society:** No response

**KC Conservation & Design:** No objections (advisory amendments requested)

**WY Archaeology Service:** Objected to the original proposal and advised refusal or a significant re-design. The scheme has subsequently been amended and in the view of Officers it is acceptable to advance the application in line with WYAS's recommended conditions.

**KC Ecology:** No objections subject to conditions.

**KC Landscape:** No objections subject to condition

**KC Business Economy & Regeneration:** No response

## 9.0 MAIN ISSUES

- Principle of development
- Residential Amenity & Design
- Landscape and Ecology
- Heritage & Archaeology
- Highway/Access
- Drainage
- Ground Risks
- Representations
- Other matters

## 10.0 APPRAISAL

### Principle of development

- 10.01 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. The starting point in assessing any planning application is therefore to ascertain whether or not a proposal accords with the relevant policies within the development plan, in this case, the Kirklees Local Plan. If a planning application does not accord with the development plan, then regard should be as to whether there are other material considerations, including the NPPF, which indicate the planning permission should be granted.
- 10.02 Given the commercial nature of the proposal, the following Local Plan Policies are applicable in this instance: LP2 – Place Shaping, LP3 – Location of New Development, LP7 – Efficient and Effective use of Land and Buildings and LP8 – Safeguarding Employment Land and Premises.
- 10.03 Kirklees Local Plan Policy LP2 states '*All development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan, in order to protect and enhance the qualities which contribute to the character of these places, as set out in the four sub-area statement boxes below*'. The Huddersfield Place Shaping Statement under LP2 identifies opportunities for growth along the M62, which skirts Huddersfield to the north, while also identifying a challenge to growth in Huddersfield relating to pockets of high unemployment, deprivation and poor health.

- 10.04 The site is located just south of the M62 between junctions 23 and 24. MACS currently employ 49 Full Time equivalent Employees (FTE) on the site and are anticipating increasing this further by 15 FTEs which equates to a 30.6% employment expansion to a total of 64 FTEs. The Planning Addendum submitted in support of the application goes into further detail by stating ‘2 of these new members of staff will be trained to become skilled technicians and the business will continue to build upon its existing apprenticeship relationships with local colleges’. As such, the proposal seeks to build on its existing success at its current location within the Borough in conformity with LP2.
- 10.05 Kirklees Local Plan Policy LP3 requires development to reflect the Spatial Development Strategy while supporting employment growth through the delivery of allocations set out in the Local Plan. The site is located within the Lindley Moor Priority Employment Area (8HA) within an allocated Mixed-Use site (MXS3). The location of the extension upon the existing commercial premises is therefore compatible with the requirements of LP3
- 10.06 In respect of Local Plan Policy LP7 and the need to use land and buildings efficiently and effectively, the policy promotes the adaptation of underused properties provided that they are not of high environmental value. The site is considered a Mid-Altitudinal Grassland Opportunity Zone, but otherwise has no special environmental designation or protection. Details in respect of the development’s ecological impact and contribution to a Biodiversity Net Gain will be covered in more detail below. Nevertheless, KC Ecology have no objections to the proposal and, though there are some minor heritage constraints, the site was allocated and relatively underused across its northern extent. It is felt that the proposed extension strikes the right balance in respect of making effective use of the northern area of the site while respecting the surrounding heritage and archaeological assets. Overall, there are no officer concerns in respect of meeting the requirements of LP7.
- 10.07 The proposal meets the requirements of the Kirklees Local Plan in respect of its location relative to the Spatial Strategy, the expansion of an existing conforming use within an allocated and underused part of the site alongside the potential contribution of the development to an increase in skilled employment within the workforce.
- 10.08 Policy LP8 states the following: ‘Proposals for development or re-development for employment generating uses<sup>1</sup> in Priority Employment Areas will be supported where there is no conflict with the established employment uses in the area.’ As the proposed extension to the workshop building as well as to the vehicle yard and car parking area will be in association with the existing use of the site, no conflict is consequently envisaged with Policy LP8.

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<sup>1</sup> The B use class employment uses derived from the Town and Country Planning (Use Classes) Order Guide 1987 (as amended). These are:

B1 Business

(a) Offices (other than those that fall within A2 (Professional and Financial Services))

(b) Research and Development of products or processes

(c) Light Industry

B2 General Industry

B8 Storage and Distribution

- 10.09 In respect of the NPPF, paragraph 81 states that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, considering both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.
- 10.10 Further to NPPF paragraph 81, the supporting Planning Policy Statement by the applicant's agent justifies the development as follows:

*The expansion and diversification of MAC's Truck Sales Ltd in recent years has meant that the existing workshop facility, despite being built in 2017, does not meet the capacity needs of the business. It is also recognised that the expansion of the facility would offer an opportunity to introduce more efficient manufacturing techniques, which in turn will reduce the business' carbon footprint. It is the applicant's intention to combine these improvements in manufacturing efficiency with further positive projects such as rainfall recycling and the development of electric (battery powered) commercial vehicles, which is deemed to be essential to the future of the business and the industry at large.*

- 10.11 Though no specific details are given to outline the manufacturing innovations, subsequent carbon reduction or the specific rainfall recycling and electric vehicle development projects highlighted above, the proposal reflects the willingness of a local business to invest in the Borough and to expand its operations in order to meet its needs with the potential to provide productivity gains in the long term. As the NPPF instructs that significant weight should be attributed to this set of circumstances, and there are no material issues in respect of the sustainable growth policies of the Kirklees Local Plan previously discussed, the principle of development is acceptable subject to the remaining main issues to be appraised below.

#### Residential Amenity & Design

- 10.12 The southern car park extension is, on average, 21m from the rear boundaries belonging to the residential properties on Anvil Court (10-34). The principle elevation of 12 Haigh Close is most proximate to the eastern edge of the car park extension at 24m and is separated by the highway formed by Crosland Road. The curtilage of the nearest dwelling (34 Anvil Court) to the south west of the workshop extension is approximately 124m with the new hardstanding located even further away. The proximity of the eastern hardstanding to the nearest residential property (1 Haigh Way) is approximately 65m with a similar distance experienced by The Bungalow further north on the opposite side of Lindley Moor Road. By consequence the development is predominantly located across the site's northern aspect, significantly distant from nearby residential properties whilst set into the hillside given the need for the building to maintain a level floorplate relative to surrounding topography. There are therefore no concerns of the development being capable of overshadowing, overbearing or overlooking nearby residential properties given the ample separation distances evident between the proposed development and residential areas further south as well as the singular bungalow situated on the other side of Lindley Moor Road.



- 10.13 Though the scale and height of the extension and new hard standing are not of insignificant proportions, Officers' do not consider the building or the hardstanding to be of a 'massive' size and the development is arguably less intrusive on the surrounding landscape than the adjacent housing development – this will be assessed in further detail in the landscape and ecology section below. Similarly the existing building approved in 2016 is of a neutral grey colour palette and though representors express an opinion of the building being an eye-sore, this is subjective and on balance it is considered that the proposed materials (those being Kingspan composite cladding in Spectrum Metallic Silver for the elevations and Kingspan trapezoidal cladding to the roof) are acceptable as they are high quality and will match the existing materials enabling the extension to tie-in to the existing workshop. Meanwhile the proportions of the extension match the scale of the existing in respect of height and width.
- 10.14 In respect of noise, and as the application includes an intensification of use and the relocation of existing facilities elsewhere on-site it is possible, though potentially unlikely given that activity is directed further north within the site, that existing nearby residential amenity may be negatively impacted by noise during the operational phases of the development. Whilst there may be noise associated with this development, the original outline permission to which this development will be attached was subject to a condition requiring details of a sound insulation scheme and a similar condition is proposed to be attached to this application subject to approval my members. The noise survey is expected to assess all the noise emissions from the proposed development, provide details of the existing background and predicted future noise levels at the boundary of the development as well as the mitigation measures required where necessary. It is considered that the submission of such details and the inclusion of mitigation where necessary would ameliorate for adverse noise impacts that may be created once the site operations expand. The site has been operational for a number of years and KC Environmental Health colleagues have confirmed that there is not a history of noise complaints being received by the Council from adjacent residential properties with respect to MACS Trucks operations. Consequently, the introduction of the condition is a pro-active response to ensure that residential amenity is preserved in the unlikely event that noise emitted from the application site reaches a level that becomes unsociable.
- 10.15 With regard to issues that could arise during the construction period, the submitted documents do not include a Construction Environmental Management Plan (CEMP). A condition for a CEMP is consequently necessary to ensure that all reasonable steps are taken to minimise and mitigate adverse effects from construction noise that may impact nearby residential amenity.
- 10.16 In respect of Heavy Goods Vehicles occupying the newly formed area in the southern part of the site, which is indicated on the submitted plans for employee and customer car parking, a condition is recommended to be added to an approved application to ensure that the area is restricted to these personal vehicles only to prevent HGV parking. This would ensure that residential amenity is preserved given the proximity of this area relative to adjacent residential properties and the increased noise levels that larger vehicles generate.

- 10.17 In terms of external lighting and light pollution, a document titled *Electrical Services – Design Criteria by RBS dated November 2016* (ref: 16059-3) has been provided. Environmental Health have assessed the report and found that it indicates that the external service yard and car parking areas would be served with lighting with an average illuminance of 20 lux with 30% uniformity ratio through column and building mounted metal halide luminaries. Pedestrian areas will be provided with a minimum illumination of 5 lux with 25% uniformity. Floodlights in the service area will be positioned to provide an average of 150 lux in the front of the workshop doors. The report notes all external lighting except safety and security will be automatically switched off at 2300 hrs to 0700 hrs. However, this lighting information does not include sufficient information in relation to glare and stray light. Environmental Health therefore recommend a condition to require further details in this regard to protect the living conditions of nearby residential occupiers.
- 10.18 With respect to the air quality problems emanating from the site raised by one representor, KC Environmental Health have confirmed that the proposed development (Class B2) falls below the following criteria necessary for submission of an Air Quality Impact Assessment (AQIA), the criteria are as follows: The proposal site is <4000 m<sup>2</sup> (GFA), is not near to a road of concern and is not within an AQMA. Subsequently, the development is not expected to significantly impact local air quality. However, under this guidance there was a requirement for EVCPs to mitigate the impact of the additional 18 car parking spaces.
- 10.19 Nevertheless, given the description of the representation and the composition of the site's expansion (a large proportion is for the parking of various types of vehicles), Officers consider it appropriate to include an Operation Management Plan that focuses on reducing the air pollution contribution of the site relative to nearby receptors (the local residential areas). The content of the condition submission should be to identify the site's impact upon local air quality (i.e. through unnecessary engine idling) and propose measures that enable a reduction of the identified impact.
- 10.20 Overall the proposed development is able to accord with the residential amenity requirements of LP24 – Design, LP51 – Protection and Improvement of Air Quality and LP52 – Protection and Improvement of Environmental Quality through both its proposed design and through recommended conditions by which supplemental information in respect of noise, construction/environmental management, lighting and air quality shall be forthcoming.

#### Landscape & Ecology

- 10.21 The scheme is supported by a comprehensive landscaping and planting plan as well as a biodiversity net gain metric that serves to improve the appearance of the site above existing levels, while at the same time significantly improving the biodiversity value in respect of on-site habitat.
- 10.22 The effects on the existing landscape fabric within the site will initiate a change in land use from unmanaged grassland to built form and external hardstanding and landscape works. The Landscape Strategy has acknowledged the constraints and opportunities in relation to landscape, visual amenity, local historic features, ecology and drainage. There would be potential for landscape enhancement consistent with management strategies identified in the Kirklees

Local Plan and Landscape Character Assessment. The Landscape Strategy would introduce natural features such as wildflower meadow, hedgerow and woodland adding biodiversity, in keeping with the Local Plan Strategic Objectives. In relation to visual amenity, visual effects (temporary during construction phase and permanent during the operation phase) would occur to the adjacent residential properties of Crosland Road, Anvil Court and Crosland Fold at Year 1. These effects on visual amenity would reduce over time due to the growth of vegetation proposed as part of the landscape mitigation. By Year 15, with the growth of trees, hedgerow, woodland and meadow planting there would be an improved view to that of the existing, with the new planting screening the bulk of the existing built features in addition to the proposed development.

- 10.23 The revised planting plan includes some half standard *Betula* & *Sorbus* to improve the initial visual impact and provide a level of mitigative screening within the new planting areas. The species are largely native and landscape conditions would include replacement planting for a period of up to 5 years in the event that any trees became diseased or die within that timeframe. The Landscape Ecology Management Plan (Lemp 0168/V1/SF/August 2021) includes the standard 12-month replacement for any dead dying or diseased plant material and the work schedule includes the 5 year then subsequent year 6- year 25 work schedule.
- 10.24 Given the balance of representations concerned about the loss of open green land as well as the opportunity identified to improve the existing 'overgrown' and untidy grass on the site, the development does indeed reduce the volume of open moorland grass characteristic of the area, however the spaces that are retained are significantly improved and will serve to screen the existing and proposed development from view. As KC Landscape have confirmed that they are content with the landscaping submission supporting the application, the proposal is determined to be acceptable and in accordance with LP24 – Design and LP32 – Landscape.
- 10.25 A Preliminary Ecological Appraisal (PEA) has been submitted to support the application, which is welcomed. Although a PEA is not usually considered sufficient to support a planning application, in this case, no further ecological surveys are required, and a separate Biodiversity Net Gain Assessment has been submitted. It is considered that there is adequate information to allow assessment against national and local planning policy. The PEA concludes no significant impact to biodiversity is expected and therefore, the proposals are determined to be in accordance with LP30 – Biodiversity & Geodiversity. A condition to protect nesting birds during the commencement of work is also included.
- 10.26 Further detail submitted in the Biodiversity Net Gain calculation indicates a 27.97% biodiversity net gain in habitat units and a 100% net gain in hedgerow units' post-development. These calculations have been verified and correlate with the proposed landscaping plans therefore, the development is considered to be in accordance with LP30 Biodiversity & Geodiversity and Kirklees Biodiversity Net Gain Technical Advice Note in respect of the percentage increase in biodiversity habitat created. The creation and long-term management and monitoring schedule of the proposed habitats is to be secured by a condition for a Biodiversity Enhancement Management Plan (BEMP).

10.27 To conclude, the ecological enhancements proposed are determined to accord with LP30 – Biodiversity and Geodiversity.

#### Heritage & Archaeology

10.28 As outlined in Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990, in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

10.29 The approved outline planning permission 2014/93136 shows a landscaped area to the north-east corner of the site which provides a landscape buffer, with the mesh fencing set close to the building at the bottom of the embankment at a lower level than Haigh Cross. The approved reserved matters application 2016/92870 includes a landscaping plan which proposes woodland planting towards the north and east of the site to soften the view of the large industrial building from outside the site on this side. The weldmesh fencing is located at the top of the embankment, behind the woodland planting but close to Haigh Cross. The landscaping plan in this application remains unimplemented. The Design and Access Statement with the current application provides justification for the extension of the building to the north, and the Conservation and Design Team has no comments on this as the impact on the setting of the listed structures is low.

10.30 This current application also proposes to extend the yard to the east of the building towards the site boundary to create a vehicle washing zone, with the yard area also extended to the east near Haigh Cross. The yard extension is justified by the need to expand this growing business in its current location where it is easily accessible from the motorway. KC Conservation Officers accept this justification, but the proposal significantly reduces the potential for soft landscaping and screening to protect the setting of the listed structures and therefore the harm needs to be minimise.

10.31 In the respect of Haigh Cross, the setting of this Grade II listed structure has largely been eroded with the demolition of Haigh Cross Farm adjacent to the monument and extensive developments on the surrounding land which was until recently open fields. The construction of a large industrial unit with weldmesh fencing directly behind the monument has further undermined its context and setting. The Heritage Impact Assessment states that due to the historic loss of physical context and the surrounding development, the setting is now considered to make a neutral contribution to the significance of Haigh Cross. It suggests that enhancements could be made, including providing public access to the monument from Crosland Road, improvements to the soft landscaping, and interpretation panels explaining the history of the Elland Feud.

10.32 A stile has since been proposed in the boundary wall to allow public access to the cross, with an interpretation plaque on the monument. Locating the plaque on the stone boundary wall adjacent to the stile will be a more suitable and a more visible location and a condition is recommended to ensure that the plaque is sited appropriately as recommended by KC Conservation.

- 10.33 The Grade II\* listed Guide stoop has been relocated several times in the past at the junction between Lindley Moor Road and Crosland Road. It is now situated on the north-east corner of the site. It was previously set in front of a drystone boundary wall which gave it some degree of separation from the field behind but this wall has since been removed. The Heritage Impact Assessment suggests that improved soft landscaping around the stoop could enhance its setting and create a more attractive context, and a revised landscaping plan included a grassed area around it. However, the Conservation and Design Team consider that this will only slightly reduce the harm to its immediate setting and following further negotiations a final amendment has been made to rebuild the stone boundary wall around the north-east corner of the site to reinstate the field boundary and create a backdrop for the Stoop . This will provide the Stoop a degree of separation relative to the development behind it to the south. KC Conservation also indicate that the sign set to the rear of the stoop harms the heritage asset's setting. However, the sign has been subject to a permitted advertisement consent and although its appearance/design is contrary to what was approved, this would be subject to separate consideration through planning enforcement.
- 10.34 More generally the size of the proposed yard has been reduced by approximately 10% to provide a slight buffer along the eastern boundary. Furthermore, the mesh fence around the yard area has been relocated from the top of the slope to lower down the embankment where it would be less visible. Both amendments contribute to an overall improvement to the setting of the listed buildings as well to the roman road that crosses the northern part of the site and are welcomed by KC Conservation by consequence.
- 10.35 The West Yorkshire Archaeology Advisory Service considered the original proposed development to be in conflict with both national and local planning policy and request that the application be substantially redesigned or refused to ensure the preservation of significant archaeological remains. However, they also state that if permission is granted contrary to their recommendation, then the West Yorkshire Archaeology Advisory Service request a condition that all ground works are subject to an appropriate level of archaeological observation and recording (a strip and record excavation and watching brief). Previous archaeological evaluations were predicated on the preservation of the Roman road. Experience has shown that this is by no means assured and a full understanding of the historic landscape in this location should now be secured before further evidence is lost piece meal.
- 10.36 The proposed [temporary] vehicle access adjacent to the Roman road is not determined by WY Archaeology Service as being acceptable from an archaeological perspective and would likely contribute to further harm and loss of the road's archaeological potential and significance of the Class II area of Archaeological Interest. If permission is granted and it includes this route, then an archaeological record (an excavation) is to be conditioned along with further public benefits such as reconstruction and interpretation of the road and community involvement alongside the archaeological investigation. Officers consider this latter aspect the most appropriate route forward in respect of the construction access and the condition will be included on the recommended decision.

- 10.37 The development's impact upon the listed structures and the roman road is considered to negatively impact upon their historic and aesthetic value in some respects. That being said, and in the context of NPPF Paragraph 202, the harm is considered to be less than substantial given the improvements to the setting of the Stoop through the re-introduction of the stone boundary wall and the communal and evidential improvements to Haigh Cross with the erection of a stile, an information panel as well as an enlarged wildflower sown lawn to provide a visual backdrop to the Cross. Indeed, the latter secures the optimum viable use for Haigh Cross as a way of communicating its significance to local people in accordance with NPPF Paragraph 202. Likewise, the public benefits of the extension through the provision of 15 further FTEs outweighs the less than substantial harm inflicted upon the Roman Road while enabling further archaeological investigation of the road, which would possibly not otherwise come forward.
- 10.38 In summary, Officers recognise the concerns of the WY Archaeology Service. However, it is not felt that the less than substantial harm potentially incurred to the adjacent Roman Road is sufficient to warrant refusal of the application in this instance as the harm that may be inflicted is significantly outweighed by the clear public benefit of sustainable economic expansion and employment opportunities that the development provides. Moreover, the KC Conservation and Design Team similarly accept the justification provided for the proposal in balancing the desire to preserve the special architectural and historic interest of adjacent heritage assets against the public benefits of sustainable business expansion enabled by the development. The development is consequently found to be in conformity with the requirements of LP35 – Historic Environment as well as Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 and Paragraph 202 of the NPPF.

#### Highway/Access

- 10.39 Crosland Road is subject to a 30mph speed limit at the site access – this increases to 40mph just to the north of the access junction and continues up to and including Lindley Moor Road. Both roads are two-way single carriageways with a system of street lighting and footways provided in accordance with current road standards. The site benefits from a 53-space car park, and it is intended that this is increased by 13 spaces to 66 spaces in total as part of the development. A Transport Statement provided by Via Solutions gives detailed justification for the proposed off-street parking levels using the travel behaviours of existing staff.
- 10.40 The supporting documentation states that, '*Five of the spaces in the existing car park will be retro fitted to allow the charging of electric / hybrid vehicles.*'. However, no information has been received in relation to the electric vehicle charging specification. In an application of this nature, it is expected that facilities for charging electric vehicles and other ultra-low emission vehicles are provided in accordance with the National Planning Policy Framework and Air Quality & Emissions Technical Planning Guidance from the West Yorkshire Low Emissions Strategy Group. A condition requiring charging points is therefore necessary subject to approval of the application by members.

- 10.41 Details of a temporary construction access have been provided and visibility splays of 2.4m x 120m are presented on the submitted plans. This proposal remains acceptable from a highway perspective, and this has been confirmed by KC Highways.
- 10.42 The site will largely retain the use of the existing access which was designed and subsequently approved under the previous planning applications on the site. The access is determined to be sufficient to handle the volume and type of traffic generated by the use. However, given the alteration to the internal embankments within the site to enable the development to be erected, KC Highways Structures have recommended a condition that details the cross-sectional information together with the proposed design and construction of the new embankments to ensure that the integrity and safety of both Crosland Road and Lindley Moor Road are maintained.
- 10.43 In respect of a perceived increase in disruption from the site following development of the proposal, this is not anticipated to be significant. The transport statement indicates that the majority of staff arrive and depart outside the normal network peak hours and therefore have a negligible impact on the operation of the local highway network. The method of operation of the site is such that very few people (perhaps 2 -3 per day) call to collect or view vehicles. It has been shown that the proposed extension of the building is likely to generate about 10 additional journeys to work in a car and most of these would be outside the network peak periods. When this level of traffic is distributed on to Crosland Road to the north and south, the offsite impact of these vehicles on the safe operation of the local highway network is neither material nor significant and certainly no more than could be expected from the daily fluctuations in traffic flows that will exist. Similarly, the current level of parking provision on the site is considered sufficient to meet the demands of staff and customers / visitors additionally.
- 10.44 Further to the above, KC Highways Development Management have highlighted a lack of lighting on the shared use facilities installed as part of the previous permission on the land that forms part of Public Right of Way HUD/408. There is potential intensification of use of this facility, and Highways DM officers wish to encourage sustainable transport methods. It is also deemed that the needs of people with disabilities, and the elderly should be taken into account as an integral part of the design process. As such, consideration should be given to providing a system of lighting on this shared use footway via consultation with the Council's PROW department and this requirement has been added to the recommended lighting scheme condition.
- 10.45 In light of the above and conditions recommended therein, the proposed development is determined to be acceptable in respect of transport safety and the development's impact on the transport network. The development is consequently found to be in accordance with LP20 – Sustainable Travel and LP21 – Highways and Access of the Kirklees Local Plan.

#### Drainage

- 10.46 The development has been submitted with a supporting Flood Risk Assessment prepared by Haigh Huddleston & Associates (Report dated March 2021) which identified that the site has a previously agreed surface water attenuation plan. Both the LLFA and Yorkshire Water have reviewed the submission and have provided their comments which are as follows:

- 10.47 In summary, the report states that foul water will discharge to the public foul sewer, that the sub-soil conditions are unlikely to support soakaways, but such a design may be feasible subject to further investigation otherwise surface water will discharge to a culverted watercourse via attenuative underground storage with restricted discharge subject to LLFA requirements.
- 10.48 Given the scope of the proposal, a detailed assessment of the increased hardstanding and installation of an increase in attenuation for the 1 in 30-year critical storm event with an appropriate allowance for climate change is required. A choice of incorporating the critical 1 in 100 year + climate change event in underground attenuation or safe above ground storage should clearly be demonstrated. Any additional hardstanding falling toward Crosland Road that cannot drain by gravity to the existing attenuation system should be attenuated to the minimum Kirklees design requirement of 3l/s as shown on indicative plans. Connections of land drainage to the northern watercourse under Lindley Moor Road have been accounted for in the original agreement that imposed discharge restrictions from the hardstanding. Connections for land drainage are therefore sanctioned. Local drainage networks must also be protected during the construction period.
- 10.49 Given the need for further information in respect of surface water drainage, both the LLFA and Yorkshire Water have recommended conditions that require full foul and surface water land drainage details to be submitted prior to commencement of the development and implemented once those details are agreed. There is also a requirement for the foul and surface water drainage to be separate, for the points of discharge to be agreed as well as details of the means satisfactorily draining the site during the construction site in conjunction with a risk assessment of its implementation.
- 10.50 Overall the proposed development is recommended for approval subject to conditions requiring the above details and therefore the proposal is considered acceptable and in line with LP28 – Drainage and Chapter 14 of the NPPF.

#### Ground Risks

- 10.51 Development on land that is unstable, currently contaminated or suspected of being contaminated due to its previous history or geology, or that will potentially become contaminated as a result of the development, will require the submission of an appropriate contamination assessment and/or land instability risk assessment.
- 10.52 The following documents have been submitted in support of the application:
- A Phase 1 Geo-environmental Report by Haigh Huddleston dated April 2021 (ref:E21/7818/R001)
  - A Coal Mining Risk Assessment by Haigh Huddleston dated 8th April 2021 (ref:E21/7818/MD/L001)
- 10.53 From the Phase I report, KC Environmental Health Officers state that it is apparent that there have been potentially contaminative uses on the site (and/or adjoining land) which could impact upon the development and/or the environment. For that reason, conditions relating to an intrusive investigation and subsequent ground remediation where required are necessary to ensure safe habitation of the development for future employees/staff members.



- 10.54 In respect of coal mining legacy risks, The Coal Authority have responded to planning consultation and consider the site a Material Consideration. The application site falls partly within the defined Development High Risk Area; therefore, within the 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. The Coal Authority's information indicates that two coal seams are conjectured to outcrop at or close to the surface within the northern part of the site. These seams may have been subject to unrecorded mining activity in the past.
- 10.55 The planning application is accompanied by a brief Coal Mining Risk Assessment report (8 April 2021, prepared by Haigh Huddleston & Associates). Based on a review of relevant sources of coal mining and geological information, the submitted report concludes that shallow coal is potentially present beneath the site, which may have been worked in the past.
- 10.56 The Coal Authority agree with the recommendations of the Coal Mining Risk Assessment report; that coal mining legacy potentially poses a risk to the proposed development and that investigations are required, along with possible remedial measures, in order to ensure the safety and stability of the proposed development. The LPA Case Officer has considered The Coal Authority's advice and has included their recommended condition and accompanying comments in their recommended decision to members. The development is subsequently determined to be in accordance with LP53 – Contaminated and Unstable Land - of the Kirklees Local Plan

### Representations

- 10.57 To date, a total of 8 representations have been received in response to the council's consultation and subsequent re-consultations. The material considerations raised in comments following publicity of the application have largely been addressed in this report, including those related to residential amenity (noise, air quality etc), design (scale, appearance etc), and transport (unsocial parking) concerns. The list below and subsequent responses are matters that either fall beyond the scope of planning legislation or which are not determined to be material considerations.

- Financial impact on houses/house prices next to the site.

The impact of development on property or other asset prices is not a material planning consideration that can be reviewed by the LPA – this position is supported by a significant body of case law.

- The extension will increase the size of the building making it 'massive' and will further compromise my view.

The scale of the building has been reviewed in the Residential Amenity & Design Section above. The point relating to a view is again not a material planning consideration which is also supported by Case Law on this specific topic.

- Fall-out of water onto the public footpath and highway is a safety risk.

The pre-existing issue of water being discharged from the site onto the highway should be reported to the Kirklees Highways department for investigation. The matter is not something that falls under the remit of the Town and Country Planning Act 1990 unless a formal Planning Enforcement case is raised and it is found that a breach of condition has been committed.

- Cranes are regularly extended on the site, which negatively affects the appearance of the local area.

The presence of extended cranes is not a permanent feature given that the cranes are able to be moved therefore the cranes' impact on the appearance of the area is temporary, limited and not of concern.

#### Other Matters

10.58 There are no other matters

### **11.0 CONCLUSION**

11.1 The proposal is a sustainable development that will be advantageous to the local economy. The development will incur some minor harm to adjacent heritage assets, but this is determined to be less than substantial and outweighed by the aforementioned public benefits to the local economy. The site shall also benefit the environment in that it will enable a significant improvement to biodiversity habitat despite a large proportion of the site being given over to hard-standing as the proposal is accompanied by a comprehensive landscape scheme.

11.2 Outstanding details remain in respect of drainage, ground risks and archaeology, however these points of fact do not preclude the development from being recommended for approval to members as they are not deemed to be insurmountable and are able to be covered by appropriately worded conditions.

11.3 This application for extension to an existing commercial premises to enable business expansion within the Borough is recommended for approval by Officers subject to a member decision at Strategic Committee.

### **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 documents.
3. Submission of a Construction (Environmental) Management Plan. (Pre-commencement)
4. Car park surfacing to be implemented prior to use of development.
5. Highway retaining structure details (Pre-commencement)
6. Submission of foul and surface water drainage details (Pre-commencement)
7. Submission of temporary drainage details (Pre-commencement)
8. No piped discharge of surface water until satisfactory outfalls agreed

9. Southern hard-standing area to be restricted to the parking of personal vehicles only (i.e. not Heavy Goods Vehicles)
10. Coal Mining Intrusive Site Investigations(Pre-commencement)
11. Coal Mining Investigation report prior to the development being brought into use.
12. Phase 2 Contaminated Land Site Investigation Report (Pre-commencement)
13. Remediation Strategy works and potential for revision subject to site discovery.
14. Remediation Strategy submission and implementation and conducted by a suitably competent person as well as submission of a validation report.
15. Noise Assessment (Pre-commencement)
16. Lighting Scheme including PROW illumination
17. Electric Vehicle Charging Points
18. Archaeology Written Scheme of Investigation (Pre-commencement)
19. Protective Archaeological Fencing (Pre-commencement)
20. Temporary Access and Archaeological Investigation
21. Nesting Bird Protection
22. Submission of a Biodiversity Enhancement and Management Plan
23. Approved landscaping scheme details, Landscaping implementation timescale (within the planting season following completion of development) and 5 year maintenance period
24. Development to be constructed of matching materials.
25. Boundary wall details
26. Operation management plan with a focus on reducing unnecessary air pollution.

**Background Papers:**

Application and history files.

Website link to be inserted here

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

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

Date: 16-Dec-2021

**Subject: Planning Application 2021/91172 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) Crown Motors, Waterloo Road, Waterloo, Huddersfield, HD5 0AH**

#### APPLICANT

Mr Brown, Cubic  
Expression UK Ltd

#### DATE VALID

22-Mar-2021

#### TARGET DATE

17-May-2021

#### EXTENSION EXPIRY DATE

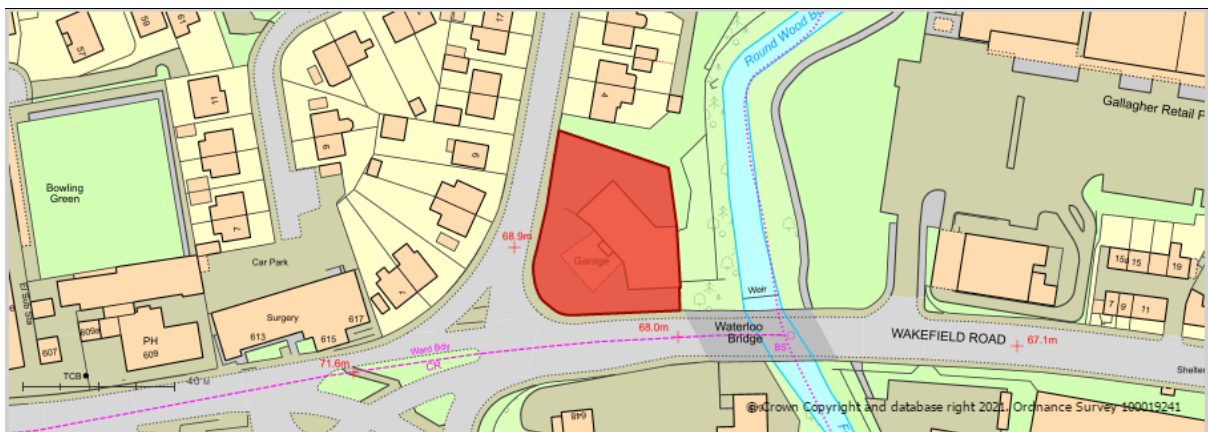
26-Oct-2021

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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**

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**Electoral wards affected: Dalton**

**Ward Councillors consulted: No**

**Public or private: Public**

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**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 This application is brought before Strategic Committee for determination under the terms of the Delegation Agreement because it is deemed to be a departure from the development plan. A small part of the site to the rear is designated as Urban Green Space within the Kirklees Local Plan and the proposal would not comply with Policy LP61(a) (Urban green space).

1.2 At an earlier stage in the process a request for a Sub-Committee decision was made by Ward Councillor Musarrat Khan, for reasons set out fully in section 7 of the report, relating to highway safety, impact on residential amenity, possible anti-social behaviour, and public health. This request was confirmed as valid by the Chair of Huddersfield Sub-Committee, but officers reached the view that as the proposal was a departure it would have to be determined at the Strategic Committee and not at an area Sub-Committee.

1.3 The application was presented to Strategic Committee on 21<sup>st</sup> October 2021. Members voted to defer the application to allow for further consideration/provision of further information in respect of:

- 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.

**2.0 SITE AND SURROUNDINGS:**

2.1 The site is a former vehicle servicing centre and repairs garage, car sales pitch and auto parts sales centre. It is located on a corner site, bounded by Wakefield Road to the south and Waterloo Road to the west. It comprises an extensive hard-surfaced forecourt on the corner and road frontage with vehicular access and egress points on both road frontages, three linked flat-roofed buildings constructed in mixed materials towards the centre of the site, and further hard-surfaced land near the northern boundary.

2.2 On the opposite side of Wakefield Road is a taxi base whilst to the east of the site is a belt of woodland and a landscaped area adjacent to a retail park. The nearby development to the west is mainly residential. According to the applicant, the uses ceased completely at the end of June 2021 and the site is now vacant.

### **3.0 PROPOSAL:**

3.1 The proposal seeks full planning permission to change the use of the building and associated land to a hot food takeaway.

3.2 The proposed hours of use as stated on the application form are 7am until 11pm, 7 days a week. However, the applicant has subsequently confirmed that alternative hours of 8am-10:30pm Sun-Thurs, 8am-11pm Fridays and Saturdays would be acceptable from an operational point of view. It is predicted that there would be 6 full-time equivalent staff.

3.3 The Highway Statement prepared by Sanderson Associates and associated technical drawings show 7 staff parking spaces, 5 spaces or bays for customers, 4 electric delivery vehicle bays, one delivery vehicle charging space, making 17 spaces altogether.

3.4 Partial demolition of the eastern part of the building would be carried out so as to create a passageway for vehicles, but no new build is proposed.

### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

4.1 None.

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

5.1 22-Jun-2021: Transport assessment submitted.

05-Nov-2021: Amended transport data and details of vehicular layouts submitted.

25-Nov-2021: Additional statement giving justification for the latest proposed arrangements

None of the above were subject to new publicity since they were not considered to raise significant new issues or significantly change the nature or scale of the proposal.

### **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<sup>th</sup> February 2019).

#### Kirklees Local Plan (2019):

6.2 The site is within land that is within the Strategic Green Infrastructure Network on the Kirklees Local Plan. About 20% of the site is within Urban Green Space.

- 6.3 The site is located 40m from the boundary with Waterloo Local Centre.
- 6.4 It is considered that the scale and nature of the development does not raise access or Equality Act considerations.

- **LP 1:** Presumption in favour of sustainable development
- **LP 7:** Efficient and effective use of land and buildings
- **LP 13:** Town centre uses
- **LP 16:** Food and drink uses and the evening economy
- **LP 21:** Highways and access
- **LP 22:** Parking
- **LP 24:** Design
- **LP 30:** Biodiversity and geodiversity
- **LP 31:** Strategic Green Infrastructure Network
- **LP 33:** Trees
- **LP 52:** Protection and improvement of environmental quality
- **LP 61:** Urban green space

6.5 Supplementary Planning Guidance / Guidance Documents:

- KC Highways Design Guide 2019
- Climate Change Guidance for Planning Applications (June 2021)
- Hot Food Take-away (Draft Stage)

6.6 National Planning Guidance:

- Chapter 7 – Ensuring the vitality of town centres
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flood risk and coastal change
- Chapter 15 – Conserving and enhancing the natural environment.

**7.0 PUBLIC/LOCAL RESPONSE:**

- 7.1 Final publicity date expired 05-Oct-2020.
- 7.2 A total of 54 representations were made by members of the public.
- 7.3 One representation was made by Ward Councillor Musarrat Khan, who represents Dalton Ward, and one from Councillor Alison Munro, who represents the neighbouring Almondbury Ward.
- 7.4 Against – 22 representations, a summary of the representations made are as follows:
- Highway safety issues if it makes use of the existing access because of motorists using it to cut through the traffic lights and the increase in footfall.
  - Increased traffic at what is already a busy junction
  - They have overestimated the amount of parking available and it is not clear that there will be space for deliveries



- Increased air pollution arising from traffic
- Increased noise nuisance and light pollution
- Odours
- Public health – too many takeaways in Waterloo already
- Increased anti-social behaviour
- Increased litter
- Concerns about food waste and disposal
- Impact on property values
- The site could be used for homes, a community centre, or to facilitate junction improvements
- Why not use the former Total Fitness centre as it has ample parking?
- Contrary to Policy LP47 of the Local Plan regarding Healthy, active and safe lifestyles

7.5 In support – 30 representations, a summary of the representations made are as follows:

- It might take pressure off McDonalds because having just one drive-thru takeaway leads to congestion inside the retail park.
- It would stop cars taking a short cut through the garage site.
- It is a good place for a takeaway with safe access and egress, traffic lights and crossings already in place, ample parking and easily accessible by foot or bus. Traffic is not very problematic at the moment, with only occasional queues. The garage would generate as much, or more, traffic and noise if it were in use.
- It would provide an additional option for people who want to buy food without going into the retail park and would give people more daytime / early evening options.
- Would create local jobs, including for young people who may want to work part-time while studying.
- Lighting, CCTV and parking bollards will improve safety.
- Healthy / vegan options would be welcomed.
- Convenient location for customers.
- The existing site is an eyesore.

7.6 General Comments – 2 representations, a summary of the representations made are as follows:

- It is considered that the supporting documents for the proposed change of use should include a Traffic Impact Assessment (TIA) which assesses the effect of the proposed commercial use on the surrounding road network, including Waterloo Road and Wakefield Road, both of which currently suffer from congestion. A TIA would provide a more robust means to assess the traffic implications of the proposals relative to the local plan transport objectives which seek to reduce congestion rather than add to it.
- Not appropriate here because junction too busy.

7.7 Ward Councillor Musarrat Khan – comments and requests a Sub-Committee decision.

- I have received a number of emails and phone calls from concerned residents in the immediate area. Over the years I have supported residents with a number of complaints in relation to the nearby existing MacDonaldis. These complaints are in relation to late night anti-social behaviour and

noise, and littering in the area. Safer Kirklees and waste services have worked with me on numerous occasions to remedy these issues. Many of the residents are vulnerable elderly, with some households in receipt of social care. Crown Motors was open from 8 am till 4:30 pm and the noise was minimal. This application is seeking consent for operational times to be extended from 7 am to 11 pm and will no doubt increase the amount of noise and littering in the vicinity as well possibly attract more anti-social behaviour. The noise will have a detrimental impact on the residents' peaceful residence in and around the immediate area.

- Nearly half of adults in Dalton Ward are either overweight or obese. There are already five unhealthy hot food outlets. I see the business is invited to work with FINE however there is no stipulation once granted permission that healthy hot food is promoted nor any powers to enforce any food outlet to serve healthy food.
- Waterloo Road has suffered from high levels of traffic congestion with queues stretching from the junction at Albany Road to Wakefield Road. I have approached Highways to request remedial action previously and have been told nothing can be done. The residents will no doubt be experiencing poor air quality due to this existing traffic congestion. Should this application be granted the roads will no doubt be more busier for longer periods and the air quality further reduced.
- The proposal to close the exit will only exacerbate the traffic issues and isn't really a solution. I would rather the developer used Penistone Road to exit and access the site and I think this is the safest solution.
- The site is more suitable for a hairdressers, garage or retail. Please may I request that this application is referred to the planning committee?

#### 7.8 Councillor Alison Munro (Almondbury Ward Councillor) – comments

- It is already used as a cut-through between Waterloo Road and Wakefield Road and this may continue with a drive-through takeaway.
- The highway is very busy and there was a serious accident at the junction recently. I feel therefore that until some highways safety measures are implemented this should not be a viable proposition as the takeaway will only serve to increase footfall and raise the risk of a serious accident happening again.
- In the meantime, LP 19 of the Local Plan – Transport- Site TS3 A629/A642 provides for junction improvements on roads approaching Huddersfield Town Centre to reduce congestion and improve connectivity to Huddersfield and destinations beyond. – This takeaway will only create more congestion at this junction. I therefore feel a full and robust traffic assessment be carried out to ascertain the implications for the highway in relation to the Local Plan objectives as not only will it impact upon Waterloo Rd/Wakefield Rd, but Penistone Rd too.
- Finally, there is already a dearth of takeaways in Waterloo and it is well known that takeaway food can be bad for health. I seriously question whether another one is really needed. It is not known what kind of hot food this takeaway will provide, but this needs to be explored if the council is to approve the application.

## **8.0 CONSULTATION RESPONSES:**

Below is a summary of the consultation responses received during the course of the application. Where appropriate, responses are expanded on further in the main assessment:

### **8.1 Statutory:**

KC Highways Development Management – No objection

KC Environmental Health – No objection

### **8.2 Non-statutory:**

KC Planning Policy – No objection

KC Police Architectural Liaison Officer – No objection

KC Public Health – No objection

## **9.0 MAIN ISSUES**

- Principle of development
- Impact on vitality and viability of commercial centres
- Urban design issues
- Residential amenity
- Highway issues
- Drainage issues
- Representations
- Other matters

## **10.0 APPRAISAL**

### Principle of development

- 10.1 The majority of the site is without designation on the Local Plan proposals map, but about 20% of the site – the northern and north-eastern part – is within urban green space. Under Policy LP61, development on urban green space will be permitted only in a limited range of circumstances.
- 10.2 Besides the assessment of urban green space issues, the main planning policy issues to be taken into account will be the impact of the proposed development on the town and local centres, healthy lifestyles, highway safety, residential amenity and all other material planning considerations and representations received.
- 10.3 Policy LP16 in particular is concerned with food and drink uses and the evening economy. It assumes that such uses will normally be located in an existing centre, which this proposal is not, but it is considered that criteria (b) to (g) dealing with environmental impacts, antisocial behaviour and so forth, can be treated as relevant.

- 10.4 Policy LP47 states that healthy, safe and active lifestyles will be enabled by “working with partners to manage the location of hot food takeaways particularly in areas of poor health”. This aim is also supported by Planning Practice Guidance – health and wellbeing.

#### Urban green space issues

- 10.5 Policy LP61 states that development proposals leading to a loss of urban green space will only be permitted where:
- (a) an assessment shows it is 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;
  - (b) replacement open space, sport or recreational facilities will be provided;
  - (c) the proposal is for an alternative opens space, sports or recreational use that is needed to help address existing deficiencies.
- 10.6 None of the above exemptions apply. Following advice from the Council Legal Officer, officers took the view that the development would represent a loss of urban green space and would contravene policy LP61. Planning officers must therefore assess whether the nature of the development, the character of the site, or other factors, amount to exceptional circumstances that would justify an approval as an exception to normal planning policy.
- 10.7 The area is already hard-surfaced and has been used for parking associated with the host building on site for many years. It would appear that no physical works would need to be undertaken in connection with the proposed development that would change what is currently evident at the site. From the case officer’s own observations on site, the existing concrete and tarmac hardstanding around the north and north-east of the building is in an acceptable condition and is not likely to need to be re-laid in the short term if the development is approved and subsequently implemented.
- 10.8 The development would not result in any material change to the character or nature of the urban green space, and which provides no opportunity for public access or recreation and makes no significant positive contribution to visual amenity. Since no new build is proposed, the adjacent mature trees would be unaffected thereby complying with the aims of LP33. It is therefore considered that the development would not result in any significant or material loss of urban green space and, although not in accordance with the requirements of Policy LP61, can in principle be allowed, subject to a full assessment of all other planning issues.

#### Impact on vitality and viability of commercial centres

- 10.9 The proposed hot food takeaway represents a main town centre use and is outside any existing commercial centres as defined on the Local Plan proposals map. Policy LP 13 states, in brief, that main town centre uses shall be located within defined centres, which should provide a mix of uses whilst retaining a strong retail core, and that main town centre uses outside of defined centres will require a sequential test to assess their suitability. Chapter 7 of the NPPF also supports this aim. Hot food takeaways are not explicitly categorised as a “main town centre use” in the NPPF. However, Policy LP16 (see paragraph 10.2 below) states that proposals for food and drink uses located outside defined centres will also require the submission of a Sequential Test.

- 10.10 The site is in an edge of centre location being 40m to the east of the defined Local Centre of Waterloo. A sequential test has therefore been requested and has been submitted.
- 10.11 The catchment of the proposal is the established customer base from the applicants Fenay Bridge site (approx. 1.2 km south east) and passing trade. The Fenay Bridge site is a bar and restaurant which switched to a takeaway and delivery service in response to Covid-19 restrictions. The applicant wishes to retain and expand the takeaway service at the application site when the Fenay Bridge site returns to normal business as a bar and restaurant.
- 10.12 In the sequential assessment, it states that the proposal requires a minimum of 0.3ha including sufficient parking to meet operational needs.
- 10.13 Paragraphs 3.19 to 3.21 of the sequential assessment set out the area of search and refer to the centres of Waterloo, Dalton Green Lane, Aspley and Huddersfield Town Centre. It is considered that in this instance the defined District Centres of Almondbury and Moldgreen and the Local Centre of Lepton should have been treated as being within the catchment of the proposal. However, Planning Policy have commented that on the basis of their own desk-based research, there do not appear to be any sites within the Almondbury, Moldgreen and Lepton centres that could accommodate the proposal, taking account of flexibility in format and scale.
- 10.14 The applicant has not found any sites available and suitable in Waterloo, Dalton Green Lane or Aspley Local Centres. Reference is made to the Top Spot Snooker Centre in Aspley which is available, but it is accepted that it is not suitable for the proposal even when taking account of flexibility, on account of there being too few parking spaces and it being spread over three floors. In reference to Huddersfield Town Centre, the applicant states that Harvey's Bar/Kitchen are in the process of opening a new branch in the HD1 area of the Town Centre and that having two such businesses in the Town Centre would not be viable.
- 10.15 Given that Huddersfield Town Centre is, in any case, not within the catchment area of the proposal, as set out above, it is considered that it should be excluded from the area of search.
- 10.16 In conclusion, it has been demonstrated that there are no suitable and available sites within the catchment of the proposal taking account of flexibility including format and scale.
- 10.17 Under Policy LP13, an Impact Assessment is only required for proposals which include retail, leisure and office developments (which this is not); policy LP16, however, recommends that an Impact Assessment should be submitted for all food and drink uses outside defined centres. In this instance it is considered that an Impact Assessment would be unnecessary since, owing to the catchment it would serve, it would not be competing directly with businesses in commercial centres.
- 10.18 The proposal is therefore in accordance with the aims of Local Plan policy LP13 and 16 and paragraph 87 of the NPPF.

### Healthy, safe and active lifestyles

- 10.19 The Council has been preparing a Hot Food Takeaway SPD to consider the location and impact of new takeaways and add further guidance to Local Plan policies. The preparation of this guidance was on hold due to the relaxation of planning restrictions on restaurants providing takeaway services in the Covid-19 pandemic. The emerging SPD is not adopted and is only now out to public consultation. It therefore carries no weight in decision making at this stage. Accordingly, Local Plan policies should continue to be used to determine applications for new Hot Food Takeaways. This includes Policy LP47(j), that the Council will work with partners to manage the location of hot food take-aways particularly in areas of poor health.
- 10.20 Nevertheless, to consider the impact of the development on health, Kirklees Public Health have been consulted. They make use of the Public Health Toolkit to assess the impact of the development on health. The toolkit uses a range of local data, known as indicators, these are: Index of Multiple Deprivation (IMD) quintile, Percentage of adults overweight, Percentage of adults obese, Percentage of 5-year olds (reception) with excess weight, Percentage of 11-year olds (year 6) with excess weight, Diabetes prevalence rate, Coronary heart disease prevalence rate. The toolkit advises that an application for a hot food takeaway should be refused where the location has a combined points total of 20 or more across the seven indicators.
- 10.21 When considering these indicators, it is important to have a balanced and fair approach to supporting local business and economic growth, whilst also taking steps to ensure our environments support the health and wellbeing of our residents. It is also recognised that the tool utilises data from a range of sources, some refreshed annually, and others updated less frequently.
- 10.22 Dalton Ward has been found to be in the worst 40-50% on the IMD (Index of Multiple Deprivation), scoring 2 points, and it also scores 2 points for diabetes prevalence, 4 points for coronary heart disease prevalence, and 6 points for 5-year-olds with excess weight. The combined points total is 14, which indicates that the proposal would not result in an unacceptable increase in poor health or health inequalities.
- 10.23 Where a new proposed hot food takeaway is within 400m of a school, Kirklees Public Health recommend that consideration should be given to restricting opening hours to discourage visits by school-age children. This is not the case here as the nearest school (Dalton Junior, Infant and Nursery) is approximately 800m away. It is therefore considered that school children would not form part of the customer base and given this distance, it is unlikely that they would use the takeaway.
- 10.24 For the reasons set out above, it would thereby accord with the aims of LP47 of the Local Plan.

### Urban Design issues

- 10.25 The proposal involves no new build and only minor physical alterations to the buildings or associated land. The formation of the new internal passageway for vehicles would involve partial demolition to create an opening front and rear, and the windows would also be removed from the side elevation. For the

avoidance of doubt, it is recommended that a condition be imposed to require details to be submitted showing how the building would be made good following the partial demolition. Subject to this, it is considered that it would be neutral in its impact on visual amenity and the townscape, and therefore in accordance with the aims of LP24(a).

#### Residential Amenity

- 10.26 The site is located within a predominantly residential area. It is the view of Environmental Health Officers that the originally proposed hours of use are acceptable. However, concerns about the proposed hours were expressed at the last Committee meeting. In order to allay these concerns, the agent has offered to reduce both the morning and evening opening hours, which would then be 8am-10:30pm Sun-Thurs, 8am-11pm Fridays and Saturdays, and these can be conditioned. In order to ensure that noise from the operation of the premises, such as from extractor fans and other plant does not give rise to undue levels of noise disturbance, it is recommended that approval be subject to a condition that before the use is commenced, an assessment of noise emissions and necessary attenuation measures be submitted to and approved in writing.
- 10.27 In the interests of ensuring that cooking fumes are controlled and do not give rise to odour nuisance, it should also be conditioned that details of a kitchen extract ventilation system are submitted and approved, and the scheme installed before the use commences.
- 10.28 No external lighting is proposed as part of the scheme, but in the event of it being deemed necessary for security or customer safety reasons, details must be submitted and approved so as to ensure that any lighting installed does not give rise to loss of residential amenity or environmental impacts arising from glare, light spill, or light trespass. This would be secured by condition.
- 10.29 Subject to the above, it is considered that it would accord with the aims of LP24(b), LP16(b) and LP52.

#### Highway issues

- 10.30 Highways Development Management initially requested: details of trip generation, so as to demonstrate that the trips generated would be safely incorporated by the junction without causing additional delay or highway safety issues; a scaled drawing showing the parking that would actually be available rather than just an indicative sketch; clarification as to what the access arrangements would be; assurance that wastes could safely be collected from within the site. These were all provided and were used to inform the officer's report and recommendation.
- 10.31 Following deferral of the application at the October Strategic Committee, further plans were submitted changing the proposed layout, which are examined and commented on in paragraphs 10.32-40 below.
- 10.32 Waterloo Road and A642 Wakefield Road join at a complex signalised junction with the A629 Penistone Road adjacent to the application site. The junction is very busy, especially during the peak hours, when congestion does occur. Kirklees Highway Safety team have records of issues regarding rat running traffic using the site to avoid the traffic signals and would like to see this concern dealt with.

- 10.33 A detailed Highway Statement was prepared by Sanderson Associates date 21-Jun-2021. Trip generation was calculated using the Trip Rate Information Computer System (TRICS) database. The trip generation calculations (taking the most recent use of the site as the baseline) indicated that in the morning peak approximately 35 additional trips and in the evening peak approximately 30 additional trips would be generated by the proposals. It should be noted that the extant use calculations and the proposed use calculations were based on slightly different floor areas and that any change in these would increase the number of additional trips to approximately 38 in the am peak hour and 37 in the pm peak hour. The Saturday trips were shown to decrease between the extant and proposed uses during the highway peak (12:00 to 13:00), however there would be expected to be an increase in trips during the evening. It should be noted that these figures were based on the retail and repairs garage uses only and did not take into account trips associated with the petrol filling station.
- 10.34 New figures for trip generation were submitted on 4<sup>th</sup> November 2021, which took into account all three of the previous uses – the petrol filling station, car showroom and car repair garage. This found that taking a comparison between the previous uses and proposed use, there would be a significant reduction in trips compared to peak hours, from 63 to 42 (AM) and from 66 to 44 (PM).
- 10.35 The Highway Statement details the proposed operation of the development which is broken down as 30% click and collect, 65% delivery, with the remainder drive-in pass-by trips. This is based on the operation of the existing Fenay Bridge site. It is proposed that an app would be used by customers for both click & collect and delivery. When the order is placed, the app would provide a delivery/collection time to the customer. The app would be controlled by a Content Management System (CMS) in order to manage the number of orders at any time to prevent congestion within the kitchen and subsequently, controlling the number of arrivals on site to collect orders and the dispatch of deliveries. For click & collect orders, the customer would be expected to arrive on site at the collection time given. If the customer is early or the preparation of their order has been delayed for any reason the customer would be asked to wait. If customers arrive on site without having placed an order in advance, they would then be able place an order from a reduced menu, specifically designed to cater for pass-by trade by providing a short wait time.
- 10.36 An amended parking and circulation layout has also been submitted. The changes shown on Fig 4 Revision A are regarded as a further improvement from those originally shown in the consultants' report. With the addition of the collection lane, there is additional stacking space for customer vehicles within the site, and any driver's intent on using the premises as a short-cut would face a more tortuous route, so such behaviour would be disincentivised.
- 10.37 The access onto Wakefield Road would be maintained as an exit with left turn only and with improvements to improve safety. It is proposed that the access would be narrowed to 4.8m in width by the construction of fencing either side, and a "no entry" sign installed to discourage movements from Wakefield Road. It is also proposed that markings and a "left turn only" sign would be installed to prevent right turn movements from the exit and a "Customers Only" sign at the Waterloo Road access to discourage use of the site as a cut through to avoid the traffic signals. These measures were proposed on the version previously presented to Committee. The latest amendment, (Figure 4 Revision A), also proposes to add vehicle flow plates, which physically prevent entry



from Wakefield Road. It is considered that if these measures are implemented, which can be conditioned, the proposals are an enhancement to road safety from the current position.

10.38 Consideration has been given to the complete closure of the Wakefield Road access as requested by Members at the last Strategic Committee. This is not an option that is favoured by the developer but nevertheless, a drawing to consider this theoretical alternative has been submitted for completeness. The applicant has made the following additional arguments in support of the “left turn only” proposal and retaining both access points:

- A high proportion of delivery customers are expected to be from the local area, such as Lepton, Flockton, Kirkburton, and as such the ability to turn left on to Wakefield Road would mean fewer delivery vehicles having to negotiate the signalled junction of Waterloo Road – Wakefield Road.
- If all vehicles had to exit by means of Waterloo Road there would be more congestion within the site.

10.39 Highways Development Management are of the view that the closure of the access would be preferred, since this would completely put an end to rat-running through the site, but that it is not absolutely essential to allow the development to proceed. It is the view both of Highways and Planning Officers that the new arrangement is acceptable in highway safety terms.

10.40 Turning to parking provision, the TRICS-based car park accumulation was included within the highway statement and this calculated that only 6 parking spaces would be required at any given time, although it is noted that this could vary depending on how the premises were operated. In view of the way the development is intended to operate, the number of parking spaces that would be available within the site is considered more than adequate to serve the proposed takeaway. A swept path analysis for an 11.85m refuse vehicle was shown on one of the earlier layouts which demonstrated that access for a vehicle of this size and type can be safely accommodated with the proposed layout, and the Highway Officer has confirmed that this would still be possible under the most recent layout. The manoeuvring of the refuse vehicle will require one of the spaces to be temporarily closed, but this should be easily managed as the waste collection time will be scheduled in advance. The applicant has confirmed that it is intended that all refuse storage would be within the building. In the event of capacity being insufficient, there would be room to store waste containers at the rear of the site without it interfering with vehicle movements.

10.41 With this additional information as provided in the Highway Statement, the improved parking, access and circulation layouts submitted 05-Nov, the application is judged to be acceptable on highways grounds. It is therefore considered to be in accordance with the aims of policies LP21, LP22 and LP16(d-f) of the KLP.

#### Drainage issues

10.42 The site is located within a Critical Drainage Area but as it is for change of use only it is not considered to have any drainage implications.

## Representations

10.43 Concerns relating to highway safety and residential amenity are highlighted here with other issues raised and officer responses.

10.44 Against – 21 representations

- Highway safety issues if it makes use of the existing access because of motorists using it to cut through the traffic lights and the increase in footfall.

**Response:** It is considered that the proposed use, with the new signage as proposed, would mean it would be less likely that motorists would use the site as a short cut, and although this behaviour might not be entirely eliminated, it is anticipated it would be reduced.

- Increased traffic at what is already a busy junction

**Response:** It is considered that net trip generation would not be in excess of what the junction can safely take on.

- They have overestimated the amount of parking available and it is not clear that there will be space for deliveries

**Response:** The original parking layout was just a sketch and could not be assessed. The parking plan submitted with the Transport Assessment shows that there would be adequate space for customer and staff parking and for deliveries.

- Increased air pollution arising from traffic.

**Response:** The site is not within an air quality management area and in any case it is not considered that the potential impact on air quality arising from increased net vehicle movements would be material.

- Increased noise nuisance and light pollution

**Response:** Both of these can be controlled by conditions as set out in detail in paragraphs 10.25-28 and it is considered that unacceptable impacts can be avoided.

- Odours

**Response:** Again, it can be conditioned that details of an air extraction system showing appropriate methods of treating fumes can be conditioned.

- Public health – too many takeaways in Waterloo already

**Response:** It is considered that given the existing health indicators, the existing concentration of takeaways in the local area or in the Ward would not provide a basis for refusal on health grounds.

- Increased anti-social behaviour

**Response:** This is a concern which can be overcome or mitigated by requiring a CCTV scheme.

- Increased litter

**Response:** Whilst an understandable concern, it is considered that this would not amount to a policy-based reason for refusal.

- Concerns about food waste and disposal

**Response:** There would be sufficient space to store waste containers at the rear of the site without it inhibiting vehicle movements. The Highway Statement plan shows that wastes can be collected from within the site. Waste disposal would have to accord with appropriate legislation concerning health and safety.

- Impact on property values

**Response:** Perceived impact on property value is deemed to be a private interest and therefore not a material planning consideration.

- The site could be used for homes, a community centre, or to facilitate junction improvements

**Response:** The site is not allocated for any specific use on the Local Plan and hypothetical alternative uses, even if they would potential bring greater public benefit, cannot be treated as a material consideration.

- Why not use the former Total Fitness centre as it has ample parking?

**Response:** The Total Fitness premises are quite a large building, judging by external measurements would appear to have over 3,000sqm of floorspace which would appear to be far in excess of the applicant's functional requirements. Furthermore, it is outside any recognised town or local centre and is therefore not sequentially preferable in planning terms.

- Contrary to LP47 of the local plan on healthy lifestyles.

**Response:** It is considered that the extent of poor health within the Dalton ward, as set out in paragraph 10.19-22 above, is not at a level that would justify refusing the application.

#### 10.45 In support – 22 representations

- It might take pressure off McDonalds because having just one drive-thru takeaway leads to congestion inside the retail park.

**Response:** It is possible it might divert some trade from the nearby McDonalds but this has not been given any weight as a factor in assessing the application.

- It would stop cars taking a short cut through the garage site.

**Response:** It is the view of the Highway Officer that the installation of appropriate signage would reduce the likelihood of this happening although it would probably not be possible to totally eliminate such behaviour.

- It is a good place for a takeaway with safe access and egress, traffic lights and crossings already in place, ample parking and easily accessible by foot or bus. Traffic is not very problematic at the moment, with only occasional queues. The garage would generate as much, or more, traffic and noise if it were in use

**Response:** The Highway Statement predicts some additional trip generation but based on the layout and other details set out in the Highway Statement, officers conclude that this would be manageable.

- It would provide an additional option for people who want to buy food without going into the retail park and would give people more daytime / early evening options

**Response:** Perceived public demand for the proposed takeaway is not a factor that can be afforded significant weight since it is subjective and therefore cannot be treated as a material planning consideration.

- Would create local jobs, including for young people who may want to work part-time while studying.

**Response:** It is expected that jobs would be created but no significant weight has been placed on this factor in the assessment of the application.

- Lighting, CCTV and parking bollards will improve safety

**Response:** There is no proposal at this stage for new or upgraded lighting; a condition can however be imposed so that if it is deemed necessary, details must be submitted and approved. A CCTV scheme can also be controlled by condition in the interests of crime prevention. The Wakefield Road access would be narrowed by means of metal fencing rather than concrete bollards.

- Healthy / vegan options would be welcomed.

**Response:** It is doubtful that this could be controlled through the planning process.

- Convenient location for customers

**Response:** This is subjective but it is anticipated that a large proportion of customers would live or work in the local area.

- The existing site is an eyesore.

**Response:** The existing buildings, when visited by the case officer, appeared to be in a good state of repair and not affected by vandalism, but finding a new use for vacant buildings is in principle something to be welcomed as it would help to prevent them deteriorating.

#### 10.46 Comments – 2 representations

- It is considered that the supporting documents for the proposed change of use should include a Traffic Impact Assessment (TIA) which assesses the effect of the proposed commercial use on the surrounding road network, including Waterloo Road and Wakefield Road, both of which currently suffer from congestion. A TIA would provide a more robust means to assess the traffic implications of the proposals relative to the local plan transport objectives which seek to reduce congestion rather than add to it

**Response:** A Highway Statement has been submitted, which has informed the report and recommendation.

- Not appropriate here because junction too busy

**Response:** Highways issues, especially those concerning the junction, have been examined in detail in sections

#### 10.47 Ward Councillor Musarrat Khan – comments:

- I have received a number of emails and phone calls from concerned residents in the immediate area. Over the years I have supported residents with a number of complaints in relation to the nearby existing MacDonalds. These complaints are in relation to late night anti-social behaviour and noise, and littering in the area. Safer Kirklees and waste services have worked with me on numerous occasions to remedy these issues. Many of the residents are vulnerable elderly with some households in receipt of social care. Crown Motors was open from 8 am till 4:30 pm and the noise was minimal. This application is seeking consent for operational times to be extended from 7 am to 11 pm and will no doubt increase the amount of noise and littering in the vicinity as well possibly attract more anti-social behaviour. The noise will have a detrimental impact on the residents' peaceful residence in and around the immediate area.

**Response:** Anti-social behaviour in the local area is a concern (see 10.43 below) but it is considered that it does not amount to a reason to refuse since the possibility of such problems occurring can be substantially mitigated by a condition requiring the installation of CCTV.

Opening hours of 7am until 11pm daily might not be suitable for all locations, and if it were in a quiet area with a wholly residential character, shorter hours would be sought. It is however noted that this location is, as previously observed, on a very busy road junction and in an area with a mix of uses albeit with a strong residential element. Furthermore, the building does not directly adjoin residential properties (the nearest is 4 Waterloo Road, the side elevation of which faces the rear of the premises at about 15m distance). Cllr Musarrat Khan's concerns are noted and specifically that there is a higher than average concentration of elderly or other vulnerable people in the vicinity of the site, however, based on the observations of the Environmental Health Officer, it is considered that the proposed opening hours are acceptable and that any potential issues of noise generation can be satisfactorily addressed by a condition requiring a full noise survey before the use commences.

- Nearly half of adults in Dalton Ward are either overweight or obese. There are already five unhealthy hot food outlets. I see the business is invited to work with FINE however there is no stipulation once granted permission that healthy hot food is promoted nor any powers to enforce any food outlet to serve healthy food.

**Response:** This issue has been examined in paragraph 10.19-22 above. Based on advice from Kirklees Public Health, the levels of excessive weight, obesity and general poor health in the ward are not of sufficient magnitude to justify refusing the application on public health grounds. It would not realistically be possible to control the type of food on offer using planning powers.

- Waterloo Road has suffered from high levels of traffic congestion with queues stretching from the junction at Albany Road to Wakefield road. I have approached Highways to request remedial action previously and have been told nothing can be done. The residents will no doubt be experiencing poor air quality due to this existing traffic congestion. Should this application be granted the roads will no doubt be busier for longer periods and the air quality further reduced.

**Response:** Impact on highway safety issues has been examined in detail earlier in the report. It is considered that the local highway network is of a

sufficient standard to take on any additional traffic generated, and that subject to conditions as previously set out, would not lead to any worsening of highway safety. The site is not within an Air Quality Management Area and therefore the possible localised increase in vehicle emissions cannot be afforded significant weight in the planning process.

- The proposal to close the exit will only exacerbate the traffic issues and isn't really a solution. I would rather the developer used Penistone Road to exit and access the site and I think this is the safest solution.

**Response:** Again, the closure of the Wakefield Road access is not the applicant's favoured alternative.

- The site is more suitable for a hairdressers, garage or retail. Please may I request that this application is referred to the planning committee?

**Response:** The existence of hypothetical alternative uses which might generate less traffic or have fewer impacts on their surroundings cannot be treated as a material planning consideration.

#### 10.47 Councillor Alison Munro – comments

- It is already used as a cut-through between Waterloo Road and Wakefield Road and this may continue with a drive-through takeaway.

**Response:** As previously stated it is considered that with appropriate signage this problem should be reduced.

- The highway is very busy and there was a serious accident at the junction recently. I feel therefore that until some highway's safety measures are implemented this should not be a viable proposition as the takeaway will only serve to increase footfall and raise the risk of a serious accident happening again.

**Response:** It is noted that it is a very busy junction, but it is considered that with a one-way system in place, and proposed works including signage, the amount of additional vehicular movements associated with the site would not give rise to a material increase in highway safety problems.

- In the meantime, LP 19 of the Local Plan – Transport- Site TS3 A629/A642 provides for junction improvements on roads approaching Huddersfield Town Centre to reduce congestion and improve connectivity to Huddersfield and destinations beyond. – This takeaway will only create more congestion at this junction. I therefore feel a full and robust traffic assessment be carried out to ascertain the implications for the highway in relation to the Local Plan objectives as not only will it impact upon Waterloo Rd/Wakefield Rd, but Penistone Rd too.

**Response:** Based on the Highway Officer's comments, it is considered that the highway assessment submitted by the applicant is sufficiently detailed and has overcome officers' initial concerns.

- Finally, there is already a dearth of takeaways in Waterloo and it is well known that takeaway food can be bad for health. I seriously question whether another one is really needed. It is not known what kind of hot food this takeaway will provide, but this needs to be explored if the council is to approve the application.

**Response:** For reasons set out previously it is considered that public health impacts do not, in this instance, amount to a sufficiently serious concern to

justify a refusal, and it is unlikely that the Council could effectively control the type of food that would be served.

### Other Matters

- 10.48 *Crime and antisocial behaviour.* Hot food takeaways are sometimes associated with antisocial behaviour especially if the layout of the premises provides opportunities for loitering. It is therefore recommended that all public areas of the premises, including the car parking areas, and external entrance and exit points to the building, must be covered by CCTV. The submission of a plan giving details of the positioning of the cameras can be made the subject of a condition.
- 10.49 *Biodiversity:* Since the development involves no new build it is considered that it would be unreasonable to expect it to deliver biodiversity net gain. However, the condition requiring details of new external lighting to be submitted will ensure that external lighting does not give rise to negative impacts on adjacent land with wildlife habitat potential.
- 10.50 *Climate Change:* On 12<sup>th</sup> 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 pre-dates 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.
- 10.51 In this instance the applicant has not submitted any supplementary statement or other information to explain how the proposed development would help to address or combat climate change effects. However, it is considered that reusing an existing building within an accessible location that would draw upon passing trade and potentially encourage linked trips would in principle be compatible with the carbon reduction aims outlined above.
- 10.52 Furthermore an electric vehicle charging point would be installed to serve delivery vehicles, which can be conditioned in the interests of encouraging low impact means of transport. The applicant has subsequently confirmed that he would be willing to install a second charging point for staff. This would conform to the principle accepted by Kirklees that 1 in 10 unallocated parking spaces should normally have a charge point and can also be conditioned.

## **11.0 CONCLUSION**

- 11.1 It is considered that for the reasons set out in the report the proposed development would be appropriate in principle in this location and would not detract from the vitality or viability of town or local centres. It is considered that the arrangements shown would provide safe access to the local highway network and would avoid giving rise to increased highway safety problems. These are an improvement on the arrangements originally brought before Strategic Committee on 21<sup>st</sup> October. Subject to the conditions set out in the

report, it would ensure that no adverse impacts on residential amenity or the local environment would occur.

11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. 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 it 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 commences within 3 years.
2. Development to be in full accordance with plans and specifications
3. Areas for parking to be provided, marked and thereafter retained
4. Signage (as detailed in the highways statement) installed and thereafter retained
5. Hours of use to be 8am-10:30pm Sun-Thurs, 8am-11pm Fridays and Saturdays
6. Noise survey to be submitted and approved before the use commences
7. Details of ventilation system to be submitted and approved before use commences
8. No external lighting to be installed other than in accordance with an approved scheme.
9. CCTV scheme submitted and approved before the use commences.
10. Minimum of 2 electric charge points, one for delivery vehicles and one for staff.
11. Details of external works showing how the building is to be made good after demolition.

**Background Papers:**

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f91172>

Certificate of Ownership – Certificate A signed