

Public Document Pack



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

Julie Muscroft

The Democracy Service

Civic Centre 3

High Street

Huddersfield

HD1 2TG

Tel: 01484 221000

Please ask for: Richard Dunne

Email: richard.dunne@kirklees.gov.uk

Wednesday 16 March 2022

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 24 March 2022**.

(A coach will depart the Town Hall, at 10:00 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', on a light-colored background.

Julie Muscroft

Service Director – Legal, Governance and Commissioning

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

The Strategic Planning Committee members are:-

Member

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

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

Substitutes Panel

Conservative

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

Green

K Allison
S Lee-Richards

Independent

T Lyons

Labour

M Akhtar
M Kaushik
J Ramsay
C Scott E Firth

Liberal Democrat

PA Davies
J Lawson
A Marchington
A Munro

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

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

2: Minutes of the Previous Meeting

1 - 4

To approve the Minutes of the meeting of the Committee held on 24 February 2022.

3: Declaration of Interests and Lobbying

5 - 6

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

4: Admission of the Public

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

5: Deputations/Petitions

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

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

6: Planning Applications

7 - 8

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 21 March 2022.

To pre-register, please email governance.planning@kirklees.gov.uk or phone Richard Dunne or Andrea Woodside on 01484 221000 (Extension 74995 or 74993).

Please note that measures will be in place to mitigate the risks of COVID infection including, if required, the use of social distancing. This could result in limiting the number of places available at the meeting.

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

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.

7: Site Visit - Planning Application No: 2021/93645

Installation of a new 3G synthetic turf pitch, upgraded and extended grass pitches, car-parking and additional landscape works YMCA, Lawrence Batley Recreational Complex, New Hey Road, Salendine Nook, Huddersfield.

(Estimate time of arrival at site 10:15 am).

Contact Officer: RichardA Gilbert, Planning Services.

Ward(s) affected: Lindley

8: Site Visit - Planning Application No: 2021/92486

Erection of 5 buildings for a mixed use of educational, agricultural and community uses former Spenborough Wastewater Treatment Works, Smithies Lane, Heckmondwike.

(Estimated time of arrival at site 11:00 am)

Contact Officer: Callum Harrison, Planning Services.

Ward(s) affected: Heckmondwike

9: Planning Application - Application No: 2021/92528

9 - 36

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

Contact Officer: David Wordsworth, Planning Services

Ward(s) affected: Birstall and Birkenshaw

10: Planning Application - Application No: 2021/93645

37 - 52

Installation of a new 3G synthetic turf pitch, upgraded and extended grass pitches, car-parking and additional landscape works YMCA, Lawrence Batley Recreational Complex, New Hey Road, Salendine Nook, Huddersfield.

Contact Officer: RichardA Gilbert, Planning Services.

Ward(s) affected: Lindley

11: Planning Application - Application No: 2021/93073

53 - 66

Erection of energy storage facility contained within a fenced compound with associated landscaping and access works Land adj, Holme Bank Mills, Station Road, Mirfield.

Contact Office: Farzana Tabasum, Planning Services.

Ward(s) affected: Mirfield

12: Planning Application - Application No: 2021/92486

67 - 78

Erection of 5 buildings for a mixed use of educational, agricultural and community uses former Spenborough Wastewater Treatment Works, Smithies Lane, Heckmondwike.

Contact Officer: Callum Harrison, Planning Services.

Ward(s) affected: Heckmondwike

Planning Update

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

Contact Officer: Richard Dunne

KIRKLEES COUNCIL

STRATEGIC PLANNING COMMITTEE

Thursday 24th February 2022

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

Apologies: Councillor Mark Thompson

1 Membership of the Committee

Apologies were received from Councillor Mark Thompson

2 Minutes of the Previous Meeting

The minutes of the meeting held on 27 January 2022 were approved as a correct record.

3 Declaration of Interests and Lobbying

No declarations of interests or lobbying were declared.

4 Admission of the Public

All items on the agenda were taken in public session.

5 Public Question Time

No questions were asked.

6 Deputations/Petitions

No deputations or petitions were received.

7 Site Visit - Planning Application No: 2021/94337

Site visit undertaken.

8 Planning Applications

The Committee considered the following applications.

9 Planning Application - Application No: 2018/92647

The Committee gave consideration to Planning Application 2018/92647 Hybrid Planning Application for mixed use development - retail/office and 229 residential units (Use Classes C3/ E(a) /B1a). Full Planning permission for the partial demolition of the former Kirklees College, erection of a food retail store and alterations in connection with conversion of grade ii* listed building to offices/apartments and creation of vehicular access from Portland Street, New North

Strategic Planning Committee - 24 February 2022

Road and Trinity Street. Outline application for erection of (two) buildings (residential apartments - C3 Use) (Listed Building within a Conservation Area) former Kirklees College, New North Road, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Committee received representations from Jeremy Williams and Paul Fox (on behalf of the applicant).

RESOLVED –

Delegate to the Head of Planning and Development to approve, contrary to the officers recommendation to refuse, to include completion of the draft conditions and S106 agreement contained within the considered report and planning update.

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

For: Councillors: Bellamy, Greaves, Pattison, A Pinnock, Sokhal and S Hall (6 votes).

Against: (0 votes).

10 Planning Application - Application No: 2021/94337

The Committee gave consideration to Planning Application 2021/94337 Erection of construction facility to facilitate the construction works for the section of the TRU between Huddersfield and Westtown (Dewsbury), provision of strategic construction compound including open storage, trackworks and overhead line equipment (OLE) assembly and associated welfare facilities, construction of a retaining wall, environmental mitigation measures (noise attenuation) and provision of temporary platform for use during works at Huddersfield Station with associated access, utilities/drainage works Operational railway land, Hillhouses Yard, Alder Street, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Sub Committee received a representation from Tony Rivero (on behalf of the applicant).

RESOLVED –

Subject to agreement with the applicant of a Grampian Pre-commencement Condition detailing the type and location of noise mitigation to be implemented at adjacent Noise Sensitive Receptors, delegate approval of the application and the issuing of the decision notice to the Head of Planning and Development to:

1. Complete the list of conditions including those contained within the considered report and the Planning Update.
2. In the circumstances where the Grampian pre-commencement condition has not been agreed 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 mitigation and benefits that would have been secured via the pre-commencement condition; if so, the Head of Planning and Development is

Strategic Planning Committee - 24 February 2022

authorised to determine the application and impose appropriate reasons for refusal under Delegated Power

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

For: Councillors: Bellamy, Greaves, Pattison, A Pinnock, Sokhal, and S Hall (6 votes)

Against: (0 votes).

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

LOBBYING

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

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

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

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

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

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

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

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

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

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

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

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

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

Lobbying

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

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

PLANNING POLICY

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

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

National Policy/ Guidelines

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

REPRESENTATIONS

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

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

EQUALITY ISSUES

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

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

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

HUMAN RIGHTS

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

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

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

PLANNING CONDITIONS AND OBLIGATIONS

Paragraph 55 of The National Planning Policy Framework (NPPF) requires that Local Planning Authorities consider whether otherwise unacceptable development could be made acceptable through the use of planning condition or obligations.

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

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

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

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

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

Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 24-Mar-2022

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

APPLICANT

Lidl GB Ltd

DATE VALID

21-Jun-2021

TARGET DATE

20-Sep-2021

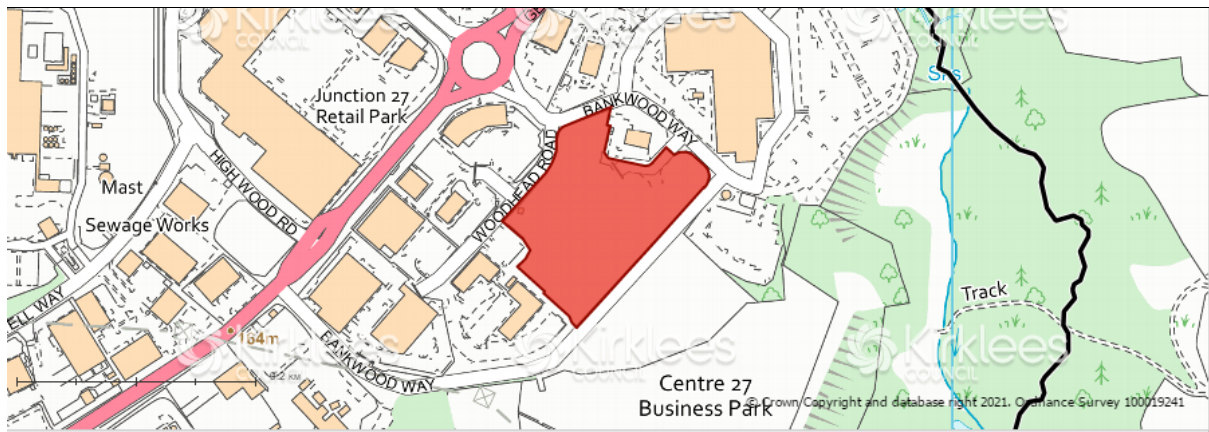
EXTENSION EXPIRY DATE

16-Dec-2021

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

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Birstall and Birkenshaw

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

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

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

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

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

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

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

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

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

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

In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Strategic Investment shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Development and Master Planning is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

1.0 INTRODUCTION:

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

2.0 SITE AND SURROUNDINGS:

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

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

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

3.0 PROPOSAL:

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

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

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

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

3.5 The proposed access from Woodhead Road would serve both stores.

3.6 The internal layout includes a joint servicing area to the rear of the stores and 174 car parking spaces, including 10 accessible spaces, 9 parent and child spaces and 2 electric vehicle charging spaces. A ramped footpath link from Woodhead Road is not being provided, however, there is pedestrian access from Woodhead Road via pavements.

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

3.8 It is proposed to have two new substations within the site rather than relocating the existing substation. The new substations are adjacent to Woodhead Road and Bankwood Way, which does not give rise to any significant implications.

3.9 The application form indicates that the development would provide 110 part time and full-time jobs (75 FTE).

4.0 RELEVANT PLANNING HISTORY:

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

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

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

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

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

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

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

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

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

6.0 PLANNING POLICY:

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

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

6.3 Kirklees Local Plan (2019):

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

6.4 Supplementary Planning Guidance / Documents:

Highways Design Guide SPD

6.5 National Planning Guidance:

Chapter 2 – Achieving sustainable development

Chapter 4 – Decision-making

Chapter 6 – Building a strong, competitive economy

Chapter 7 – Ensuring the vitality of town centres

Chapter 8 – Promoting healthy and safe communities

Chapter 9 – Promoting sustainable transport

Chapter 11 – Making effective use of land

Chapter 12 – Achieving well-designed places

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

Chapter 15 – Conserving and enhancing the natural environment

6.5 Other material considerations:

Biodiversity Net Gain Technical Note

Planning Practice Guidance

National Design Guide

7.0 **PUBLIC/LOCAL RESPONSE:**

7.1 The application was advertised by site notices, neighbour letters and press advert. Three public representations have been received, all objecting to the application. The representations are summarised as follows:

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

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

- The area around McDonalds is particularly bad for queues adding at least 30 mins to 1 hour to vehicle journey times
- Adding a supermarket to this area will add to air pollution because of the additional traffic and a supermarket is also likely to create litter.
- The following objections were received from MRPP on behalf of Tesco Stores Limited and the issues it raises are appraised in paragraphs 10.31 to 10.46
- An adverse impact upon the vitality and viability of a Batley Town centre due to an adverse impact upon a key town centre supermarket that has a key role facilitating linked trips to other shops and services.
- The Nexus (retail consultant on behalf of Kirklees Council) reports are not available to the public on the council's website to allow further consideration by third parties and objectors.
- Significant concerns in relation to the applicant's submissions in respect of retail (and other) matters are summarised below.
 1. The lack of an up to date healthcheck of relevant defined centres;
 2. The consideration of disaggregation in the application of the sequential test;
 3. The adopted catchment area for the purposes of the sequential test;
 4. The lack of a robust assessment of the Local Plan Priority Employment Area Policy

7.2 Ward councillors were notified of the application. Councillor Mark Thompson commented on the applicant's proposed pedestrian improvement plan:

- *Why drop kerb and tactile paving right on the roundabout, this roundabout is so busy I would have thought discouraging pedestrians to cross there would have been the priority.*
- *The plan to install another set of pedestrian lights! Seems to be overkill on a length of road no longer than 800 mtrs + no one goes down to those lights as there is no obvious ingress or egress from either side of the road to where those lights are or going to be, please explain.*
- *Wouldn't an overhead walkway be more beneficial to pedestrians and to keep the flow of traffic going on what is one of the busiest stretches of road in Kirklees?*
- *With all the additional food halls and takeaways being completed to the Showcase side of the retail park and the, sometimes, overwhelming footfall at the other side of the A62 why would we interfere so much with flow of traffic i.e. drop kerbs and additional lights.*

Officer's response is included in the representations section at paragraphs 10.111 to 10.114.

A meeting has been held with Councillor Smaje, attended by planning and highways officers. The meeting was to discuss highway issues within this area, including within the context of the proposed development. Councillor Smaje has raised significant concerns with the traffic situation around the retail park and has expressed her desire to see a coordinated approach to help alleviate this.

Councillor Smaje has concerns that the proposed development will add to the existing problems on Gelderd Road and the surrounding area.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

KC Highways Development Management – No objection

National Highways (formerly Highways England) – No objection

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

KC Lead Local Flood Authority – No objection subject to conditions.

The Coal Authority - No objection subject to conditions

8.2 Non-statutory:

KC Planning Policy – No objection on retail policy grounds

KC Environmental Health – No objection subject to conditions

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

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

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

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

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

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

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

WY Archaeology Advisory Service – No objection

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 The principle of retail development on the site has already been established. An outline application for four retail units was approved under planning application reference 2018/92563 in January 2020. That permission allows for up to 7,896m² of gross floorspace and limits the sale of convenience goods to no more than 30% of the gross floor space (or 2,369m²). By comparison, the proposed development amounts to 5,023m² of gross floor space.
- 10.2 The site is within a Priority Employment Area (PEA) in the Local Plan.
- 10.3 Local Plan policy LP8 seeks to safeguard employment land and premises. It states that 'proposals for development or redevelopment for employment generating uses in Priority Employment Areas will be supported where there is no conflict with the established employment uses in the area'. Employment uses are defined within the Local Plan. These comprise general industry (use class B2); storage and distribution (use class B8); and offices, research and development of products and processes and industrial uses that can be carried out in a residential area (use class E(g)). The Local Plan also identifies employment generating uses, which include the above uses, as well as enterprises which provide jobs, such as retail, hotel, assembly, and leisure.

The PEA in this location includes the application site and the existing offices to the southwest as well as a separate and much larger swathe of land to the west of the site. The nearby cinema, food outlets, gym and the retail stores within the Junction 27 Retail Park are not part of the PEA.

Within the immediate vicinity of the site are a range of established employment uses and employment generating uses, including offices, retail, and leisure. Within the wider PEA allocation there are some general industries as well as storage and distribution use amongst other types of business.

Officers are satisfied that the proposed development would not conflict with the established employment uses in the area. The nature of the proposed use is considered to be compatible with the established make-up of the area and the development would not introduce a use that would conflict with the operation of existing businesses. Retail uses form part of make-up of PEA's and this scheme proposes retail units found elsewhere within the vicinity where no evidence has been produced to suggest that they would not be compatible with existing employment uses.

- 10.4 Furthermore the proposed retail development is an employment generating use as defined in the Local Plan and as such it is accepted as being appropriate in a priority employment area. The principle of the development is therefore in accordance with policy LP8.
- 10.5 The applicant states that the proposal would create new employment opportunities and would generate 110 part time and full-time jobs (75 FTE). The jobs that would be created and the level of inward investment into the district would help to strengthen the local economy and this weighs in favour of the application.
- 10.6 In addition to the above, the application relates to a brownfield site and therefore involves the recycling of previously developed land. This represents an efficient use of land, which is promoted by the NPPF and Policy LP7 of the Local Plan. Furthermore, the development would remediate a contaminated site that has been vacant for a considerable period of time, which is a further benefit of the proposal.
- 10.7 Based on the above, the principle of retail development on the site is accepted. It is however necessary to consider the specific retail impacts of the proposed development, which is set out in the following section of this report.

Retail assessment

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

Sequential assessment

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

Retail impact assessment

- 10.20 Paragraphs 90 and 91 of the NPPF indicate that application proposals for retail and leisure development should be refused planning permission where a significant adverse impact is likely to arise from development. In assessing the significance of impacts arising from development, it is necessary to reflect upon

the advice set out in the Town Centres PPG. In this regard, paragraph 017 states that:

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

- 10.21 It should also be recognised that impacts will arise with all retail developments, but that these will not always be unacceptable, not least because development often enhances choice and competition. It is therefore necessary to differentiate between those developments that will have an impact and those that will undermine the future vitality and viability of established centres, i.e. have a ‘significant adverse’ impact.
- 10.22 In this case, it is anticipated that the food store will trade most directly against other convenience goods retailers capable of supporting some main food shopping trips within and close to Kirklees Retail Study Zone 9.
- 10.23 The two key impact tests identified by paragraph 90 of the revised NPPF are considered below. The tests relate to:
- the impact of the proposal on existing, committed and planned public and private sector investment in a centre or centres in the catchment area of the proposal; and
 - the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider retail catchment (as applicable to the scale and nature of the scheme).
- 10.24 An updated assessment of impact has been undertaken by Lichfields on behalf of the applicant as part of their Retail Assessment Addendum submitted in December 2022 following the objection made by Tesco. This includes the most up to date information on company average turnovers of the national food retailers as provided by Global Data. Taking this into consideration, Nexus have then provided a detailed assessment of each of the two strands of the test.
- 10.25 In terms of the first part of the test, Nexus conclude that there is not any town centre investment which would likely be prejudiced as a consequence of the application proposal. The application therefore complies with the first part of the impact test.
- 10.26 With regards to the second part of the test, Nexus do not consider that the resultant impacts on the overall vitality and viability of the defined centres would be at a level which could be considered to be significantly adverse.
- 10.27 Given the conclusions made by Nexus on the sequential and impact tests, it is considered that the proposal complies with Policy LP13 of the Local Plan and guidance in the NPPF.

- 10.28 Furthermore, planning policy is supportive of retail development which improves local customer choice and accords with sustainable development principles, providing no 'significant adverse' impacts occur at town centre locations. Most particularly, this is evident through paragraph 90 of the NPPF which requires a local planning authority to consider changes in consumer choice across the retail catchment area as a whole when determining planning applications for retail uses.
- 10.29 It is accepted that there would be no significant adverse impacts on nearby town centres, and it is acknowledged that the development would improve local customer choice. It would also promote linked trips to other nearby outlets, with associated economic as well as environmental benefits (potential for fewer vehicular trips).
- 10.30 As the proposal is for retail development in an out of centre location and conclusions on the scheme are based on the quantum and format of floorspace proposed, conditions are considered necessary to protect the vitality and viability of town centres should the application be approved. Conditions are considered necessary to restrict the net sales area of the proposed units in respect of the quantum of convenience and comparison floorspace. In addition, given the nature of the development and the comparable unit sizes in defined centres, it is also recommended that a condition be imposed to restrict future sub-division of the proposed units without approval from the Council, should the intended operators vacate the premises in the future.

Retail update (February 2022)

- 10.31 Nexus Planning have provided a supplementary appraisal of retail policy issues dated February 2022 which is accessed through the link at the end of the report under background papers. This document has been on the councils website since 17th of February 2022. The appraisal responds on matters raised by MRP on behalf of Tesco Stores Limited and Lichfields (on behalf of the applicants') Addendum to the Planning and Retail Statement dated December 2021.

Nexus focus on three retail matters as set out below:

1. The lack of an up-to-date healthcheck of relevant defined centres;

- 10.32 Concern has been raised that the consideration of impact assessment and the potential implications of the proposal has been undertaken on the basis of out of-date healthcheck information.
- 10.33 In relation to this matter Lichfields (acting on behalf of the applicant) have undertaken updated healthchecks of Batley and Birstall centres, which are provided at Appendix 3 of their December 2021 Addendum. Nexus has also undertaken updated healthchecks of the centres on 23 November 2021. Nexus detail their assessment in the supplementary note and subsequently conclude that the assessment of impact has been undertaken having regard to an up-to-date position of the existing health of the defined centres within the catchment. Nexus confirmed that its conclusions have also been reached having regard to the general impact of the COVID-19 pandemic and that the defined centres *“are generally well placed to recover from any temporary loss as Covid-related trading restrictions are lifted.”*

2. The consideration of disaggregation in the application of the sequential test;

- 10.34 Nexus have considered the relevant case law regarding disaggregation, including referencing these cases in their February note. Concluding... *“In this regard, the broad type of retail development proposed provides for occupation of the unit by a discount foodstore operator (Lidl), and a discount variety operator with an element of convenience sales floorspace (to be occupied by Home Bargains). In our view, it is clear that the application has not been submitted on a speculative basis and has been applied for using defined unit sizes and confirmed operators, and there is no intended phased approach to deliver the scheme. The proposal comprises a single scheme and we believe that the developer intends to implement it as such. We therefore consider that there is no requirement to consider the disaggregation of the elements of the scheme.”*
- 10.35 In any event, Lichfields has sought to address MRPP’s comments by providing additional commentary on potential sequential alternatives in Birstall and Batley centres, to understand if units or sites could accommodate either of the proposed units should the scheme be disaggregated.
- 10.35 Nexus have reviewed this additional work on sequential alternative sites and are satisfied that there are no suitable units if the proposal was disaggregated. This includes the Scatcherd Works specifically referenced by MRPP where Nexus state that *“given its lack of visibility/frontage and its restricted access for vehicles due to surrounding land uses, it would not be suitable for the redevelopment for large format retail units. Furthermore, the site benefits from an extant planning approval (ref. 19/07611/FU) for the demolition of the existing industrial building and construction of nine dwellings. This approval indicated that the site is likely to come forward for residential development, and as such is not considered to be available to accommodate the development proposals.”* They conclude that they are satisfied that the proposal satisfies the policy requirements of the sequential approach as articulated by Policy LP13 of the Local Plan and paragraphs 87 and 88 of the NPPF and that consideration of disaggregation has been satisfactorily addressed in the application of the sequential test.

3. The adopted catchment area for the purposes of the sequential test;

- 10.36 MRPP states that: *‘A number of centres, including Gomersal and Drighlington, sit within a short, and less than 5-minute drive time from the application site ie consistent with the area of sequential search frequently adopted by the discount foodstore operators elsewhere. The applicant’s sequential assessment is thus flawed in that it does not consider any potential opportunities within these centres, that might be ‘more accessible’ or ‘better connected’ than the application site in line with NPPF paragraph 88. A more widely cast assessment should be provided.’*
- 10.37 Nexus set out that *“Lichfields provides details of the catchment area at Appendix 1 of the Planning and Retail Statement. The justification states that, given the location of the application site, the proposed development would draw the most significant proportion of its trade from the north-eastern part of the Borough which broadly reflects Zone 9. As such, they have adopted Zone 9 as the Primary Catchment Area.*

- 10.38 *They then go on to acknowledge that as the site lies in proximity to a wide range of commercial facilities at Birstall Shopping Park, and its location in the context of the M62, the scheme may also draw trade from a wider area as people combine their trips to the proposed development with the wider commercial area. We consider this likely to be the case.*
- 10.39 *This analysis was set out in full to the Council in providing our initial advice. In doing so, it was acknowledged that there are smaller defined centres located within the Primary Catchment Area and that we were unaware of any units or sites which could be considered to be available and suitable to accommodate the proposed development.*
- 10.40 *Within Lichfields' December 2021 Addendum, they state at paragraph 4.21 that they have visited the local centres of Gomersal and Drighlington. Lichfields state that they have not identified any sites which could be considered available and suitable to accommodate the proposal.*
- 10.41 *In this regard, Lichfields refer to three sites, all of which are allocated for housing within the adopted local plan for Leeds. In each case, the sites are considered unsuitable due to their size, character and lack of clear frontages. We are satisfied that there are no sites within or on the edge of the local centres which could be considered available and suitable to accommodate the proposed development." Consequently, Nexus concludes that the catchment area adopted by Lichfields is appropriate.*
- 10.42 In addition Nexus Planning has undertaken an independent cumulative impact assessment taking account of this proposal, the similar proposal, yet to be determined, in Cleckheaton (reference 2020/62/91821/E), and other committed schemes
- 10.43 In summary, Nexus Planning's cumulative impact assessment finds that:
- the Tesco store at Cleckheaton would continue to perform very strongly and the Morrisons store at Heckmondwike would perform satisfactorily, subsequent to the implementation of the Bankwood Way and Cleckheaton Mills proposals and other relevant commitments
 - the post-impact performance of the Lidl at Heckmondwike town centre is of greater concern, but note that Lidl continues to pursue its own scheme at the application site at Bankwood Way (which would also trade against its Heckmondwike store) and we believe that it would likely also continue to trade from Heckmondwike in practice;
 - the wider offer at Cleckheaton and Heckmondwike town centres in particular but also Birstall and Batley centres, would not be subject to a significant adverse impact, as the centres would retain the same important role and function in meeting day to day retail and service needs; and
 - any impact arising elsewhere would not have a material impact on the ongoing role, function, and operation of defined centres.
- Consequently, the proposal complies with the second strand of the NPPF impact test as articulated by paragraph 90(b) of the NPPF and referred to in paragraph 10.46 below.

In conclusion:

- 10.44 In respect of the application of the sequential test, Nexus have reviewed all of the sites and locations considered by the applicant in its original and subsequent submissions, and do not believe that any one is both available and

suitable to accommodate the application proposal. Nexus therefore find that the application proposal conforms to the requirements of the sequential test as articulated by Policy LP13 of the Local Plan and paragraphs 87 and 88 of the NPPF.

- 10.45 In respect of the consideration of retail impact Nexus are unaware of any town centre investment that would likely be prejudiced as a consequence of the application proposal, which accords with the requirements of the first part of the NPPF impact test.
- 10.46 In terms of the second part of the impact test, Nexus believe that the trade diversion impacts arising at defined centres are acceptable and that no centre would be the subject of a significant adverse impact. Nexus have reached this conclusion with reference to their own cumulative retail impact assessment, site visits, and having reviewed all relevant representations submitted by interested parties.

Urban design issues

- 10.47 Policy LP24 of the Local Plan states that good design should be at the core of all proposals, and this should be promoted by ensuring that the form, scale, layout, and details of all development respects and enhances the character of the area. Guidance within the NPPF also seeks to achieve well-designed places (chapter 12).
- 10.48 The site previously contained a group of office buildings which were generally 2 and 3 storeys in height. These have been demolished and the site has been fenced off. There is a substantial number of trees to the periphery of much of the site. The site sits at a slightly lower level to Woodhead Road and slopes downwards towards the south-east where it meets Bankwood Way.
- 10.49 The surrounding area is characterised by a variety of commercial development, including brick-built office buildings, retail warehouse type buildings, a cinema and restaurants. Trees, shrubs and hedges to the boundaries of these premises are characteristic of this part of the retail park.
- 10.50 It is proposed to carry out some engineering works to create a development plateau. This involves raising the level of the ground towards the south-east and lowering the ground adjacent to the north-western boundary. The proposed car park would be set down from Woodhead Road and enclosed by a retaining wall/embankment. A retaining wall is proposed along the south-eastern boundary to Bankwood Way.
- 10.51 The proposed Home Bargains store would be located to the south-west boundary and would be side-on to Woodhead Road. The store would sit at a lower level to this adjacent highway which mitigates the overall height of the unit. The proposed Lidl store would sit perpendicular to Home Bargains and would back onto Bankwood Way. The access to a shared service yard separates the stores. Car parking occupies the remainder of the site with two areas of landscaping to the periphery.

- 10.52 The design of the buildings is typical for this type of use and reflects the standard store designs adopted by the respective operators. The Home Bargains unit is a retail warehouse faced in a mixture of render and cladding, with the materials providing contrasting tones of grey. The Lidl unit is faced in white and grey cladding with glazed curtain walling to the store entrance and incorporates a mono pitch roof.
- 10.53 The areas of landscaping to the north-western and north-eastern car park boundaries and the inclusion of some tree planting within the car park help to soften the appearance of the development and are reflective of other nearby developments.
- 10.54 The engineering works to create a development plateau result in a relatively substantial retaining wall along the south-eastern boundary alongside Bankwood Way. The adjacent car park would have a circa 2m-2.5m retaining wall with 1.1m handrail on top. To the rear of the Lidl store the height of the retaining wall increases to almost 3m in height and includes 2m palisade fencing to secure the rear of the store. As such, the Lidl store sits in an elevated position when viewed from Bankwood Way.
- 10.55 Bankwood Way is an unadopted road that links Gelderd Road with Woodhead Road with trees and shrubs on each side of the road. It currently forms a relatively inconspicuous element of the retail park. The area immediately to the south-east of the site, on the opposite side of Bankwood Way, is currently undeveloped but it forms part of the same Priority Employment Area allocation as the application site. It is therefore probable that this neighbouring land will come forward for development in the future which would mean that this becomes a more active part of the retail park.
- 10.56 The boundary treatment to this section of Bankwood Way and the elevated position of the Lidl store means that the development would be visible from the south-east, although from longer range vistas it would be viewed against the backdrop of the wider retail park, which rises gradually beyond the site. The appearance of the development at road level would be mitigated to an extent by the fact that the retaining wall would be set in from the carriageway by a 1.5m (approx.) strip of grassed verge, with the Lidl store set into the site by a further 1.8m.
- 10.57 To further soften the appearance of this part of the site, the applicant has proposed a native hedgerow in front of the retaining wall along the south-eastern boundary to Bankwood Way. Additionally, the applicant has advised that the 2m security fencing to the rear of the Lidl store can be replaced with some railings at a lower height to help create a more attractive boundary treatment. Furthermore, a condition requiring details of the facing material for the retaining wall is recommended in the interests of visual amenity.
- 10.58 In conclusion, the scale and design of the units are in keeping with the established character of the area, and it is considered that the proposal satisfies policy LP24 of the Local Plan and the guidance contained in part 12 of the National Planning Policy Framework - Achieving well designed spaces.

Highway issues

- 10.59 The site is located within the Birstall retail park which is within 2 distinct areas to the north and south of the A62 Gelderd Road, a very busy arterial road adjacent to the M62 junction 27. The proposed site is located within the southern area of the retail park.
- 10.60 The existing site access arrangement, which served the former office units is accessed off Bankwood Way. Bankwood Way, directly joins a section of Woodhead Road carrying on to its junction with the A62 Gelderd Road roundabout wraps around the rear of the site (southern boundary) to link to its priority junction with the A62 Gelderd Road, some 200m southwest of the Gelderd Road roundabout.
- 10.61 At the point where Woodhead Road meets Bankwood Way, Woodhead Road has a cul-de-sac section approximately 150m in length from its junction with Bankwood Way. Both roads serve various leisure uses including a cinema, restaurants, and a gym.
- 10.62 Vehicular access to the development site would be provided from two separate points; firstly Woodhead Road to the north-west via a new priority-controlled T-junction and secondly, through the existing site access junction off Bankwood Way to the northeast.
- 10.63 Given the level difference between the site and Woodhead Road to the north-west, pedestrian access to Woodhead Road from the site would be provided via pavements. A ramped footpath link from Woodhead Road is not being provided.
- 10.64 The site on which the retail units are proposed benefits from an extant outline planning permission (application reference 2018/92563) for four A1 non-food retail units and a 305-space shared car park, with access to be taken from Bankwood Way at two separate points.
- 10.65 As part of the extant planning permission, condition 9 requires details to be submitted and agreed for proposed changes to the priorities at the Woodhead Road / Bankwood Way junction. The same changes in priority will also be made as part of the current proposals.
- 10.66 The proposed car park provides a total capacity for 174 spaces, including 10 accessible spaces, 2 electric vehicle (EV) charging spaces and 9 parent & toddler spaces.
- 10.67 As evidence of the provision of car parking for the Lidl store, reference is made to car parking accumulation surveys which have been undertaken at two existing Lidl stores in Sunningdale Road, Balby, Doncaster and Cottingham Road, Hull.
- 10.68 A car parking accumulation for Home Bargains unit has been undertaken using trip rates from the TRICS database.
- 10.69 The largest type of vehicle expected to access the site will be for delivery and servicing movements, which would be a 16.5-metre-long maximum legal length articulated HGV. All delivery and servicing movements will be required to be

taken from the Bankwood Way access to the north-east. Vehicle swept path analysis has been undertaken to demonstrate that this existing site access arrangement can safely accommodate turning movements associated with this vehicle, and that the internal site layout is also suitably designed to accommodate the design vehicle.

10.70 Six junctions listed below, as well as the proposed site access junction with Woodhead Road, are assessed within the applicant's Transport Assessment.

1. A62 Gelderd Road / Woodhead Road / Holden Ing Way roundabout;
2. A62 Gelderd Road / Bankwood Way T-junction;
3. A62 Gelderd Road / Oakwell Way traffic signal junction;
4. A62 Gelderd Road / High Wood Road traffic signal junction;
5. Bankwood Way / Woodhead Road T-junction;
6. Bankwood Way / Existing Site access T-junction

10.71 Traffic survey information for these six junctions has been extracted from the previous information submitted in support of the extant permission on the site.

10.72 Peak hour traffic flows for each of the above junctions have been extracted from these documents, with the surveys having taken place at varying times in March, October, and December 2017.

10.73 Due to the nature of the extant permission, all junctions were surveyed and modelled during the weekday (Friday) evening peak period and during the Saturday midday peak period. The identified peak hours of the highway network were 4:00pm – 5:00pm on the Friday evening and 1:00pm – 2:00pm for the Saturday afternoon period

10.74 As far as this assessment is concerned, morning and evening peak traffic flows at a future year 2026 have been determined using 'Tempo' to provide the peak hour growth traffic flows to the future year 2026.

10.75 The previous permission on the site associated with the 4 proposed retail units have been added to form part of the base line assessment. The committed development flows have been added to the 2026 growth flows to represent traffic flows on the network in the 2026 base scenario.

10.76 The 2026 base peak hour operational characteristics of the 6 junctions have then been assessed. The applicant's Transport Assessment concludes that all the junctions within the study area are expected to continue operating within capacity during the 2026 base scenario, except the A62 Geldard Road/Bankwood Way roundabout junction and the junction of Woodhead Road and Bankwood Way where the changed priorities are proposed.

10.77 Mitigation measures were agreed as part of the extant planning permission to offset the impact of that development. These measures were:

1. Change Priority of the Woodhead Road/Bankwood Road junction to prevent queuing back, and subsequently blocking the A62 Gelderd Road roundabout.
2. Provide directional signage within the site and upon egressing to direct drivers travelling towards Birstall/Batley to turn right out of the Bankwood Road access junction and to join the A62 Geldard Road at its priority-

controlled junction with Bankwood way to the southwest of the site. This would improve development impact at the A62 Gelderd Road roundabout and improve its operation.

- 10.78 Highways Development Management have assessed the proposals including the applicant's Transport Assessment. Highways Development Management accept the principle of the two access points. Revised vehicle tracking information was requested and this is now considered acceptable. The level of parking is also considered to be acceptable.
- 10.79 The same mitigation measures as the extant permission, which are intended to offset the impact of the development on the A62 Gelderd Road roundabout (as detailed above), are to be secured through conditions. As such, it is considered that the traffic associated with the development can be adequately accommodated on the local highway network. Furthermore, National Highways (formerly Highways England) has been consulted and no objection has been raised.
- 10.80 The previous application secured a financial contribution towards a suite of pedestrian improvements within the vicinity of the site to improve connectivity with adjacent premises. The contribution amounted to £97,000 and included new pedestrian crossing points, upgrading of existing crossing points and new and upgraded pedestrian traffic islands across the retail park.
- 10.81 Officers have considered this issue as part of the current application. It is considered that improving pedestrian connectivity would be best served by a new pedestrian light-controlled crossing along Geldard Road between Woodhead Road/A62 roundabout junction and the High Wood Road junction to strengthen pedestrian connectivity between the northern and southern sides of the retail park and public transport links. Such a crossing would cost £80,000 plus a 15-year commuted sum of £30,000-40,000.
- 10.82 The applicant has proposed a contribution of £160,000 towards pedestrian improvements. This is intended to deliver the light-controlled crossing on Gelderd Road and a set of pedestrian improvements within the immediate vicinity of the site, specifically between the site access and the Geldard Road roundabout and to the four arms of the roundabout. The proposed scheme of improvements amounts to 12 dropped kerb locations and 28 tactile paving locations at the following locations:
- Dropped kerbs (2 No.) and tactile paving (2 No.) at the Bankwood Way / Site Access junction
 - Tactile paving (2 No.) at the existing dropped kerb crossing on Bankwood Way located between the site access junction and Woodhead Road
 - Dropped kerbs (6 No.) and tactile paving (6 No.) at the Woodhead Road / Bankwood Way revised priority junction
 - Tactile paving (2 No.) at the western junction between Bankwood Way and A62 Gelderd Road (across the Bankwood Way arm), and
 - Tactile paving across all 4 arms (16 No.) of the A62 Gelderd Road / Woodhead Road / Holden Ing Way roundabout, including dropped kerbs (4 No.) on the A62 Gelderd Road eastern arm.
- 10.83 The pedestrian improvement proposals are intended to meet the likely pedestrian desire lines to / from the site within the retail park.

- 10.84 A financial contribution to fund the delivery of a scheme of pedestrian improvements is considered necessary to make the development acceptable in planning terms. Furthermore, the proposed offer of £160,000 and the intended use of the contribution as outlined above, would meet the tests for planning obligations in that it would be directly related to the proposal and fairly and reasonably related in scale and kind to the proposed development.
- 10.85 The application is supported by Travel Plans for the proposed stores. These are accepted and a contribution towards Travel Plan monitoring is recommended. The required contribution is £10,000 i.e., £2,000 per annum for a period of 5 years.
- 10.86 Subject to outstanding matters, the application is considered acceptable in highway safety terms and accords with policies LP20, LP21 and LP22 of the Kirklees Local Plan and guidance in the NPPF.

Flood risk and drainage issues

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

Trees and ecology

- 10.92 There is a substantial number of trees that exist to the periphery of the site which are proposed to be removed. None of the trees are protected but consideration has been given to whether some of these trees could be retained around the car park. The number of parking spaces proposed is at the lower end of what would normally be expected for a development of this type and scale and so reducing the size of the car park is not considered to be appropriate. Instead, the applicant has proposed to increase the number of trees to the landscaped areas to the edge of the car park adjacent to

Woodhead Road and Bankwood Way. Some tree planting has also been included within the car park itself.

- 10.93 The above amendments to the landscaping scheme are an improvement and help to mitigate the loss of the existing trees to an acceptable degree when the development is weighed alongside the wider benefits of the scheme, as detailed in this assessment.
- 10.94 Kirklees Biodiversity Net Gain Technical Advice note outlines that a development should achieve no net losses to woodland cover and should achieve an overall biodiversity net gain of 10%. The proposal results in a net loss of woodland cover and it is not considered possible to compensate for this any further on site. As such, a commuted sum is sought from the development to facilitate woodland planting in an off-site location. Based on the scheme as originally submitted, a commuted sum of £38,180 is required to enable to Council to undertake biodiversity net gain off site. The applicant has however provided some additional tree and hedgerow planting. These changes to the landscaping scheme would reduce the off-site contribution. An updated calculation will be provided on the basis of the revised landscaping scheme.
- 10.95 The additional planting provided would enhance the biodiversity of the site, particularly the connectivity of the site to the nearby Kirklees Wildlife Habitat Network. The native hedgerows would help to provide similar benefits and functions to those currently provided by the existing trees.
- 10.96 In terms of the ecological impacts of the proposals, the ecological impact assessment submitted with the application concluded that there would no significant impacts, provided that a series of recommended mitigative measures be provided. These can be secured through a BEMP (Biodiversity Enhancement Management Plan), and CEMP (Construction Environmental Management Plan (for Biodiversity)) and relevant conditions are therefore recommended.
- 10.97 The applicant has submitted an updated Biodiversity Metric calculation which reflects the changes that have been made to the soft landscaping on the site, namely the provision of additional tree and hedgerow planting. This does not significantly affect the off-site contribution that has been sought to deliver a biodiversity net gain of 10%. The development is considered to comply with Policies LP30, LP31 and LP33 and guidance in the NPPF.

Contamination (including coal mining legacy)

- 10.98 The application site falls within the defined Development High Risk Area. Therefore, within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.
- 10.99 The Coal Authority records indicate that the plotted position of a recorded mine entry (adit) is within the north-eastern part of the application site. The Coal Authority hold no details of any past treatment of this former coal mining related feature. In addition, the site lies in an area where underground coal mining activity has taken place at shallow depth and where further historic unrecorded shallow coal mining is likely to have taken place.

- 10.100 The planning application is accompanied by a Combined Phase 1 & Phase 2 Ground Investigation Report (12 May 2021, prepared by Curtins). Based on a review of coal mining and geological features information, previous reports prepared for the site and further recent intrusive investigations, the report highlights that mining legacy features along with the presence of deep backfill material and landfill waste represent key constraints to the proposed development. However, the Coal Authority did not consider that this adequately addressed the impact of coal mining legacy on the proposed development. They therefore raised an objection to the proposal and considered that the applicant needed to revise and resubmit the report, taking into account matters of surface extraction, shallow mine workings, the recorded adit, mine gas and the proposed sustainable urban drainage system.
- 10.101 The applicant therefore subsequently submitted additional information in response to The Coal Authority's concerns including a Detailed Coal Mining Risk Assessment (28 October 2021). The Coal Authority assessed the additional information provided by the applicant and has withdrawn its objection, subject to the imposition of conditions that require a scheme of further intrusive site investigations, remediation works/mitigation measures to address land instability arising from coal mining legacy (as may be necessary) and validation of the completion of the remediation works/mitigation measures
- 10.102 Kirklees Environmental Services recommend conditions to address land contamination.

Crime and security

- 10.103 The Police Designing Out Crime Officer welcomes a number of the proposed security measures, such as hostile vehicle mitigation measures, security glazing to the store frontages and measures to secure the car park perimeter.
- 10.104 The Designing Out Crime Officer has recommended that vehicle height restrictors are also added to the car park entrances to deter unauthorised encampments.
- 10.105 The applicant is reluctant to add vehicle height restrictors to the car park at this stage. They have indicated that if unauthorised encampments became an issue, then they would install measures to prevent this. There do not appear to be any vehicle height restrictors to the outdoor car parks serving other premises across the retail park and there is nothing to indicate that unauthorised encampments are a particular issue within the retail park. In the circumstances, it is considered that it would be unreasonable to insist that the proposed development incorporates vehicle height restrictors.
- 10.106 It has also been recommended that gates are provided across the access road between the two proposed units which serves the delivery/loading area. This is to enhance the security of this area given that it is relatively secluded. The applicant does not wish to provide a barrier to the loading area because it would create practical difficulties. Lidl have explained that full flexibility is required because deliveries would take place at all times of the day and night and often involve third party delivery drivers. Managing these movements into the loading area would therefore be a challenge and would be further complicated by the separate requirements of Home Bargains. The applicant has however indicated that they would be willing to provide alternative security measures to the

delivery/loading area, such as CCTV. A condition is recommended to secure details of security measures for this part of the site.

Planning obligations

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

- £160,000 towards off-site pedestrian improvements
- £38,180 towards off-site biodiversity enhancement
- £10,000 for Travel Plan monitoring
- Arrangements for the future maintenance and management of the surface water drainage infrastructure within the site.

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As set out in the report, these are considered to meet the tests for Planning Obligations set out within the NPPF of being 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.

Representations

10.108 Three public representations have been received. In addition to the retail objection from MRPP on behalf of Tesco Stores Limited from MMRP addressed above, the two additional representations raise objections on the grounds of the impact of additional traffic on the highway network and air pollution. Concerns are also raised with potential litter from the supermarket.

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

10.110 Ward Member Councillor Mark Thompson commented on the applicant's proposed pedestrian improvement plan:

- *Why drop kerb and tactile paving right on the roundabout, this roundabout is so busy I would have thought discouraging pedestrians to cross there would have been the priority.*
- *The plan to install another set of pedestrian lights! Seems to be overkill on a length of road no longer than 800 mtrs + no one goes down to those lights as there is no obvious ingress or egress from either side of the road to where those lights are or going to be, please explain.*
- *Wouldn't an overhead walkway be more beneficial to pedestrians and to keep the flow of traffic going on what is one of the busiest stretches of road in Kirklees?*
- *With all the additional food halls and takeaways being completed to the Showcase side of the retail park and the, sometimes, overwhelming footfall at the other side of the A62 why would we interfere so much with flow of traffic i.e. drop kerbs and additional lights.*

Officer response:

- 10.111 The proposed dropped crossings/tactile paving are, to some extent, a legacy of the previous extant permission 2018/92563 for the erection of retail units on the site, which secured funding for a series of similar measure across the wider retail park. With regards to the Gelderd Road/Holden Ing Way/Bankwood Way roundabout, the drop crossings on the northwest, southwest, and southeast arms of the roundabout are existing, the intention being to upgrade these existing facilities with the installation of tactile paving. With regards to the northeast arm of the roundabout, there are currently no pedestrian crossing facilities on this arm.
- 10.112 It is acknowledged that the installation of a crossing facility on the northeast arm of the roundabout may be detrimental to highway safety. This arm of the junction is controlled by part time signals, which could lead to misunderstanding for pedestrians trying to cross at this point. Nevertheless, the scheme to implement these works would be designed and constructed by the Highway Authority and would be subject to an independent Road Safety Audit (RSA). If the RSA raised safety issues with this element of the scheme which could not be satisfactorily addressed, then it would be omitted from the scheme.
- 10.113 Discussions during the application process identified A62 Gelderd Road as a significant barrier to pedestrian movement between the western and eastern areas of the retail park and it was considered that the provision of a signalised pedestrian crossing point would be of strategic benefit. Assessment indicates that a crossing can be accommodated and has been located to connect with the pedestrian route serving the western retail area (Curry's PC World etc.) and the northeast bound bus stop, enabling passengers alighting at this stop to safely cross A62 Gelderd Road to access the retail (including the application site) and leisure facilities on the eastern side of Gelderd Road.
- 10.114 In terms of the suggestion of a footbridge, it is considered that a footbridge would provide similar pedestrian benefits to a signalised crossing. However, it would require a significant land footprint, particularly to construct a bridge that could meet the needs of all potential users (i.e., including ramped access). This is a heavily developed area and land is not readily available to accommodate a footbridge. Furthermore, a bridge would be extremely cost prohibitive and beyond what could be reasonably justified to mitigate the current development proposals.

Other Matters

- 10.115 The site is within the middle and outer zone of a COMAH site (Control of Major Accident Hazards), with the majority of the site being in the middle zone. As such, the Health and Safety Executive (HSE) have been consulted via the PADHI system (Planning Advice for Development adjacent Hazardous Installations). The HSE does not advise on safety grounds, against the granting of planning permission in this case.
- 10.116 Environmental Services recommend a condition to mitigate the impact of the development on air quality. A condition is also recommended to restrict the noise from fixed plant and equipment and for details of the external lighting.

10.117 The proposed development has been screened as to whether an Environmental Impact Assessment (EIA) is required, with the conclusion reached that the development does not meet the threshold for an EIA.

Climate change

10.118 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.

10.119 The development relates to a brownfield site and therefore represents the efficient use of land.

10.120 The development would provide a contribution which will promote pedestrian connectivity across the retail park and to public transport links. As part of this application, Travel Plans to encourage the use of low emission forms of transport have been provided and a contribution is to be secured regarding the monitoring of the Travel Plans. The application indicates that two electric vehicle charging points are to be provided however a condition is recommended requiring details of a scheme to ensure an adequate number are provided along with a suitable specification for the recharging points.

10.121 The development also provides replacement trees and an off-site contribution towards biodiversity enhancement, including woodland planting. Solar PV panels are proposed on the roof of the Lidl store, which would generate approximately 25% of the store's electricity requirements per year. The applicant estimates that this would reduce carbon emissions by at least 44 tonnes per year. A roof layout plan and specification for the proposed PV panels has been submitted. The provision of PV panels provides an environmental benefit which aligns with the local and national climate change agenda. As a whole these measures will help to mitigate the impact of this development on climate change.

11.0 CONCLUSION

11.1 The proposal represents a significant inward investment within Kirklees which is projected to generate 110 part time and full-time jobs (75 FTE). Within this Priority Employment Area allocation. The development will therefore contribute to the delivery of the job requirements set out in the Local Plan, in accordance with policy LP3.

11.2 Officers are satisfied that the proposed development would not conflict with the established employment uses in the area and complies with Local Plan policy LP8. The nature of the proposed use is compatible with the established make-up of the area and the development would not introduce a use that would conflict with the operation of existing businesses.

- 11.3 The proposal would also regenerate a vacant piece of brownfield land, remediating an area where there are known contamination and coal mining legacy issues.
- 11.4 The retail impacts of the scheme have been assessed and the conclusions reached by the Council's independent planning consultants with reference to their own cumulative retail impact assessment, site visits, and having reviewed all relevant representations submitted by interested parties. It has been concluded that:
- no individual alternative site is both available and suitable to accommodate the application proposal. The application proposal conforms to the requirements of the sequential test as articulated by Policy LP13 of the Local Plan and paragraphs 87 and 88 of the NPPF.
 - There are no town centre investments that would likely be prejudiced as a consequence of the application proposal, which accords with the requirements of the first part of the NPPF impact test at paragraph 90(a) of the NPPF.
 - In terms of the second part of the test at paragraph 90(b) of the NPPF, the trade diversion impacts arising at defined centres are acceptable and no centre would be the subject of a significant adverse impact.
- 11.5 It is considered that the traffic associated with the proposed development can be adequately accommodated on the highway network without resulting in any significant adverse effects.
- 11.6 The proposal would deliver wider benefits through a substantial pedestrian improvement scheme within the vicinity of the site which would help to promote linked trips across the retail park on foot. The development would also deliver a biodiversity net gain through a financial contribution that would help towards Council tree planting initiatives.
- 11.7 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.8 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

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

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

Lidl store:

Net sales area of 1,414m²

80% convenience goods (equating to 1,131m²)

20% comparison goods (equating to 283m²)

Home Bargains store:

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

4. Restriction on the sub-division of the units
5. Detailed junction design for points of access
6. Detailed scheme for proposed change to the road priorities on Woodhead Road/Bankwood Way
7. Scheme for highway directional signage
8. Detailed drainage design including surface water attenuation and petrol interceptor for the car park
9. Temporary drainage measures for construction
10. Biodiversity Enhancement Management Plan (BEMP)
11. Construction Environmental Management Plan for biodiversity (CEMP)
12. Contamination/remediation conditions
13. Scheme of to address land instability arising from coal mining legacy (address Coal Authority comment)

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

Background Papers:

Application and history files.

Website link:

[Link to application details](#)

[Nexus Retail Report Feb 2022](#)

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

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Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 24-Mar-2022

Subject: Planning Application 2021/93645 Installation of a new 3G synthetic turf pitch, upgraded and extended grass pitches, car-parking and additional landscape works YMCA, Lawrence Batley Recreational Complex, New Hey Road, Salendine Nook, Huddersfield, HD3 3XF

APPLICANT

David Hemstock,
Hemstock Design Ltd

DATE VALID

14-Sep-2021

TARGET DATE

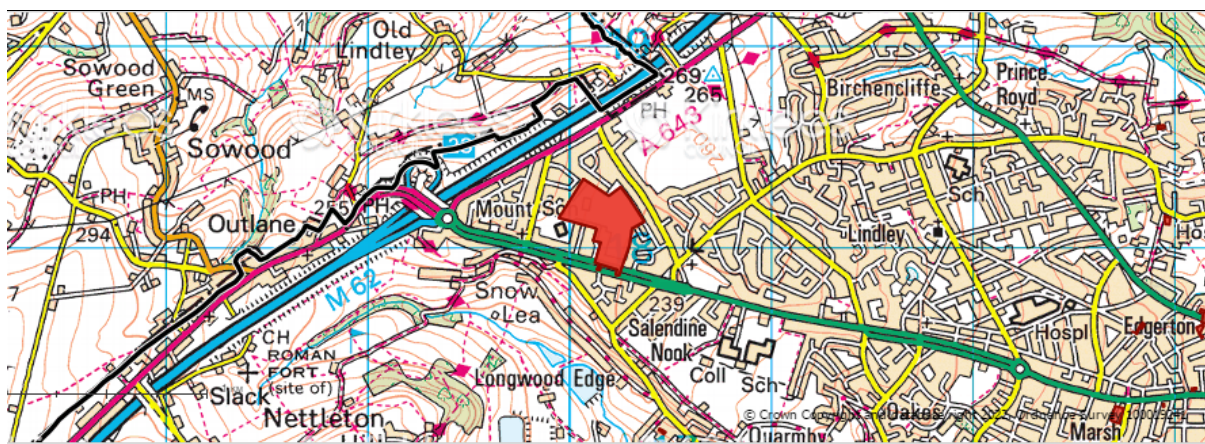
14-Dec-2021

EXTENSION EXPIRY DATE

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

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Lindley

Ward Members Consulted: Yes

Public or private: Public

RECOMMENDATION:

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

1.0 INTRODUCTION:

- 1.1 This is a full planning application seeking the installation of artificial sports pitch, the erection of new floodlights, associated access works, and the formation and laying out of car and coach parking and landscaping.
- 1.2 The application is brought to committee as it seeks non-residential development on a site in excess of 0.5ha, in accordance with the Council's delegation agreement.
- 1.3 Committee Members should be aware that works have commenced on site, particularly in respect of the 3G pitch, though works are currently in abeyance awaiting a decision on the application due to the presence of protected trees, which require removal to enable completion of the development.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site is part of the Huddersfield Laund Hill Community Club, which is a sports and activity complex accessed from New Hey Road. It consists of 7.3 hectares of sports grounds, grandstands, floodlights, access roads, car park and a 2 storey, stone built, 20th century club house with changing rooms and gymnasium. The complex is bounded by residential dwellings and Moorlands Primary School.
- 2.2 The application site relates to the Community Club's access roads with New Hey Road, its car park of around 100 spaces, and a recreational sports field measuring approximately 0.8 hectares to the north east of the club house, where pitches 2 and 4 are located.
- 2.3 The site does not affect a listed building or a conservation area. However, the application site is designated as an Urban Green Space and there are many protected trees found in and around the site.

3.0 PROPOSAL:

- 3.1 A rectangular area (approximately 113m x 68m) of the existing recreational rugby sports field is to be resurfaced with a new artificial sports pitch with fencing and floodlighting. It is intended that the artificial sports pitch would be used for rugby and football.

- 3.2 The application also includes the formation and laying out of car and coach parking and landscaping.
- 3.3 Some improvements to other pitches are indicated, including a new under 18 pitch in the north west corner of the site cited as 'Pitch 3a', an enlargement of 'Pitch G' north of Pitch 1 to create a new under Under-12 provision, as well as the re-siting of Pitch A to the east of the site entrance.
- 3.4 The Design and Access Statement sets out the phased proposals as follows:

PHASE 1:

- Construction of a new full-sized 3G synthetic pitch suitable for rugby, soccer and other uses.
- With floodlighting, fencing and central soakaway trench-based drainage system.
- Pitch A re-levelled using topsoil from the new 3G pitch area, moved slightly west and south to avoid tree root protection zones, re-drained and grassed.
- Relocation of maintenance facilities, removal of the existing MUGA.
- Additional landscape planting (currently 2,500 sq.m) and hedging (600 lin.m) to the northern and eastern boundaries. Ecological improvements through the addition of nesting boxes.
- Wildlife corridors, underplanting, etc.
- Initiation of a site-wide tree management programme.
- Introduction of an allotment 'well-being' area for mental health.
- Permeable car-park surfacing improvements and marking-out of bays, increase in parking spaces and provision of three coach parking spaces
- Clubhouse renovation through both phases.

PHASE 2:

- Re-levelling of Pitch 3, drainage & re-seeding of Pitches 3, the new 3a & G.
- Re-positioning of floodlights around Pitch 3 for safety reasons.
- Releveling of Pitch C and re-drainage of C & B.
- Clubhouse renovation through both phases.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 The YMCA complex has had numerous planning permissions for storage containers, parcel lockers, modular buildings, club house extensions and alterations, erection of a covered stand and the erection of a sports hall. Of particular interest, the relevant planning history includes:

87/05884 - Outline application for sports hall, changing and social facilities and car park (Granted – 03/06/1988)

2007/90735 - Erection of flood lighting system to rugby pitch consisting of four 18 metre columns each with 5 x 1500 watt luminaires (Granted – 28/8/2007)

2008/91068 - Erection of Sports Hall (Granted – 7/8/2008)

2019/90405 - Installation of artificial sports pitch, the erection of new floodlights, associated access works, and the formation and laying out of car and coach parking and landscaping – Refused by Committee (21/11/2019)

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

- 5.1 The proposal made under 2019/90405 was refused planning permission by Strategic Committee in November 2019. There were five reasons for refusal, those being related to the loss of a rugby pitch contrary to playing fields policy, the potential harm from noise and lighting, the loss of protected trees, adverse ecological impact and the lack of highway access information. This resubmitted application has sought to address these reasons for refusal.

6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

Kirklees Local Plan (2019):

- 6.2 The site is an Urban green space (Reference: UG125) on the Local Plan Policies Map.
- LP1 – Presumption in favour of sustainable development
 - LP2 – Place shaping
 - LP3 – Location of new development
 - LP21 – Highway safety and access
 - LP24 – Design
 - LP28 – Drainage
 - LP30 – Biodiversity and geodiversity
 - LP33 – Trees
 - LP47 – Healthy, active and safe lifestyles
 - LP49 – Educational and health care needs
 - LP50 – Sports and physical activity
 - LP52 – Protection and improvement of environmental quality
 - LP56 – Facilities for outdoor sport, outdoor recreation and cemeteries
 - LP61 – Urban green space

Supplementary Planning Guidance / Documents:

- 6.3 The following are Supplementary Planning Guidance / Documents relevant to the proposal:
- Kirklees Council Playing Pitch Strategy
 - Sport England Playing Fields Policy and Guidance Document (March 2018)
 - West Yorkshire Air Quality & Emissions Technical Planning Guidance (2014)
 - Highways Design Guide Supplementary Planning Document (October 2019)

National Planning Guidance:

- 6.4 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF), published 20th July 2021, and the Planning Practice Guidance Suite (PPGS), first launched 6th

March 2014, together with Circulars, Ministerial Statements and associated technical guidance, such as the National Design Guide published October 2019.

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

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 8 – Promoting healthy and safe communities
- Chapter 12 – Achieving well-designed places
- Chapter 15 – Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been publicised by a range of measures, including letters to neighbouring properties that adjoin the site, the posting of site notices and a press advertisement in the Huddersfield Examiner. This level of publicity accords with the requirements for this type and scale of development set out within the Development Management Procedure Order and the Planning Practice Guidance.

7.2 The end date for the period of publicity was the 19th November 2021. A total of twelve public representations were received and the following list sets out a summary of the concerns raised:

- Impact of existing trees at end terrace of Hubert Street.
- Concerns in respect of hedge planting and lack of maintenance of the boundary adjacent to Hubert Street and Shannon Drive.
- Lack of maintenance of trees on the site and the associated safety concerns with regard to fallen boughs.
- Query regarding times of operation of the proposed artificial lighting.
- Premature commencement of development
- Yellow lining of site junction with New Hey Road could create on-street parking problems for Hadrian's Close (multiple representations).
- Unknown impact of re-sited lighting columns relative to residential properties on Shannon Drive and Moorland Crescent.
- Request for removal of redundant flood lighting adjacent to Shannon Drive and Moorland Crescent.
- Loss of tree and shrub hedging to a property on Hadrian's Close with the knock on impact upon noise reduction and ecological habitat.

7.3 The matters highlighted above are reviewed in Section 10 below.

8.0 CONSULTATION RESPONSES:

8.1 The following is a brief summary of Consultee advice (more details are contained in the Assessment section of the report, where appropriate):

8.2 Statutory:

K.C. Highways Development Management: No objection subject to conditions

Lead Local Flood Authority: No objections subject to condition

Sport England: No objections subject to conditions

8.3 **Non-statutory:**

K.C. Environmental Health: No objections subject to conditions

K.C. Sports and Activity: No objections

K.C. Trees: No objections subject to condition

K.C. Crime Prevention: No objection. Security improvements recommended.

9.0 **MAIN ISSUES**

- Land Use and Principle of Development
- Visual and Residential Amenity
- Highway and Transportation Matters
- Arboricultural and Ecological Matters
- Planning Obligations
- Representations
- Other matters

10.0 **APPRAISAL**

Land Use and Principle of Development

- 10.1 Planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 10.2 The site is designated in the Local Plan as Urban Green Space (UGS) and policy LP61 (Urban green space) is central to the consideration of the proposed development. This policy states that development proposals which would result in the loss of UGS will only be permitted where:
- a) An assessment shows the open space is clearly no longer required to meet local needs for open space, sport or recreational facilities and does not make an important contribution in terms of visual amenity, landscape or biodiversity value; or
 - b) Replacement open space, sport or recreation facilities which are equivalent or better in size and quality are provided elsewhere within an easily accessible location for existing and potential new users; or
 - c) The proposal is for an alternative open space, sport or recreation use that is needed to help address identified deficiencies and clearly outweighs the loss of the existing green space.
- 10.3 This local policy basis is consistent with paragraph 98 of NPPF, which recognises that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of local communities. Furthermore, paragraph 99 of the NPPF is clear that existing open space, sport and recreational facilities should not be built on unless:

- a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

10.4 On the 22nd October 2022 Sport England issues a holding objection on the application due to a lack of information on the following matters:

- Pitch dimensions not in accordance with guidance (RFL)
- The proposed pitch AGP would not be suitable for contact rugby union activity as it would not be constructed to World Rugby Regulation 22 standards in order to be certified for use. (RFU)
- Fencing should be recessed in appropriate locations to allow for safe and easy goal storage (FA)
- Recommended perimeter fence height is 4.5m to all sides of the AGP (FA)
- A minimum safety run off 3m should be provided from all pitch perimeter lines that must be free from obstructions at all times (FA)
- A dedicated hard standing area for spectators should be provided within the perimeter fence. A 1.1m high spectator barrier should be installed to ensure that spectators can view the 3G playing area from this hard standing area which is separate from the 3G area. (FA)
- Line markings are absent. In terms of colour this should indicate the primary, secondary, tertiary layouts etc and provide a clear indication of intended use (SE/FA)
- Measures should be taken to ensure that the rubber infill does not leave the playing surface – such as, low level kick boards on the pitch perimeter fencing and rubber catch grills at the player entry and exit points of the pitch. (FA)

10.5 Subsequently, a 'Planning Answers' statement, a synthetic turf specification and three pitch-marking layout plans (FA, RFU and RFL compliant) were submitted by the applicant in February 2022 to address the matters raised by Sport England in respect of Exception 5 of their 'Playing Fields Policy and Guidance' Document. Exception 5 is set out thus:

The proposed development is for an indoor or outdoor facility for sport, the provision of which would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss, or prejudice to the use, of the area of playing field.

10.6 On the 7th March 2022, Sport England formally withdrew their objection based upon the submitted documentation subject to the imposition of two conditions. One would require the new artificial grass pitch to be constructed with a 'shockpad' that meets World Rugby Regulation 22 subject to regular inspection/upkeep to maintain the World Rugby accreditation. The second condition relates to the hierarchy of pitch-markings for football, rugby league and rugby union to be submitted on a plan prior to completion of the artificial pitch. Separately, Sport England have confirmed that the re-alignment and improved drainage of other pitches across the site accord with Exception 4 of their Playing Field Policy, whilst the re-configuration of the access and parking

arrangements met Exception 2 of the same document. KC Sports and Activity (Public Health) have identified that this project contributes toward addressing strategic shortfalls in Kirklees for artificial pitch provision, which were recognised under the previous Playing Pitch Strategy (PPS), and which remain in the emerging revision of the PPS. The proposed development also seeks to improve natural grass pitches which is further welcomed. The applicant's confirmation that the facility can be used by community users outside times of use by Huddersfield Giants would also help address some of the pressures that are experienced at other similar sites in Kirklees.

- 10.7 As the existing grass rugby pitches (2 and 4) are proposed to be replaced with an artificial sports pitch, this proposal represents replacement facilities which in principle would be acceptable in policy terms under policy LP61 (b) providing the new artificial pitch is equivalent or better in quantity and quality terms to the existing grass pitch. It appears that the new artificial pitch is at least equivalent in size to the existing rugby pitch, if not larger at 113 x 68m, and, as artificial pitches provide the opportunity for more intensive use than grass pitches as well as being available for dual use for rugby (both codes) and football, Officers consider the proposal to be in accordance with Policy LP61 (b) – Urban Green Space of the Local Plan and paragraph 97 of the NPPF.

Visual and Residential Amenity

- 10.8 Paragraph 24 of the National Design Guide: “Well-designed new development is integrated into its wider surroundings, physically, socially and visually. It is carefully sited and designed and is demonstrably based on an understanding of the existing situation.” Chapter 12 of the NPPF and policy LP24 of the Local Plan both seek development proposals that provide a high standard of amenity for future and neighbouring occupiers.
- 10.9 The artificial 3G pitch and its associated infrastructure (i.e. lighting) would not be readily visible from surrounding public vantage points and therefore, the impact upon the visual amenity of surrounding residential streets is determined to be negligible. A view of the floodlights might be possible from residential streets when the artificial pitch is illuminated, however such views are likely to be oblique, distant and obscured by the tree canopy of adjacent woodland avenues in the majority of cases. Residential properties on Hadrian's Close abut the car park and access point and due regard must be given to the impact the proposal may have on these properties in terms of the intensification of the site's use from an amenity perspective. The potential for noise and light effects from activities taking place on the 3G pitch and the newly created or re-aligned pitches also needs careful consideration.
- 10.10 The artificial pitch is sited centrally within the site and is screened by woodland belts across its western, northern and eastern flanks. To the south, there is a further woodland avenue and a disused Multiple Use Games Area (MUGA). To the south west, the Laund Hill Clubhouse separates the artificial pitch from residential properties on Hadrian's Close. Overall the likelihood of overbearance, overshadowing or privacy loss is highly unlikely to be incurred by any residential property adjoining the Community Club site with regard to the artificial pitch. The creation of Pitch 3A and the re-alignment of Pitches 3, G and A are also highly unlikely to incur issues in respect of overbearance, overshadowing or privacy loss given that new hedgerows are to be planted adjacent to the rear of properties backing onto the site from Shannon Drive, Moorland Crescent, Raiborn Avenue, Laund Road, Pennine Crescent and properties 490 to 508 on New Hey Road.

- 10.11 Though the previous planning application under 2019/90405 was partly refused permission by reason of a lack of information pertaining to noise and artificial lighting, it is appreciated that the site is an existing sports facility where such noise and light effects are already encountered. Some detail has been provided in respect of noise and lighting, particularly in respect of the artificial pitch. On this basis, KC Environmental Health have removed their objection to the development subject to appropriate conditions that require submission of the outstanding detail in respect of a noise report, noise management plan, adherence to ball impact sound mitigation and submission of the site's artificial lighting design and operation.
- 10.12 The Noise Report will require identification of the noise impact from the artificial pitch and will require mitigation if adverse noise levels are likely to be created. Adherence to the *Design Guidance Note from Sport England - Artificial Grass Pitch (AGP) Acoustics - Planning Implications* should help to further reduce noise impacts from reverberation of balls when they impact the artificial pitch's fencing. The Noise Management Plan will require the following information:
- *A facility for neighbours to report excessive noise or anti-social behaviour directly to the operator of the site and that all such complaints be logged and investigated upon receipt, and appropriate action taken promptly, and the complainant kept informed of progress*
 - *A system for training all staff to follow an action plan for dealing with complaints. This would include the ability to warn or ban user groups from the pitches*
 - *A method of informing users that swearing and anti-social behaviour is unacceptable, and that the operator of the site reserves the right to dismiss users from the pitch and ban their future use*
 - *A log of complaints which should be retained for at least a period of two years.*
- 10.13 The conditions relating to noise require submission of details prior to the artificial and re-aligned sports pitches being brought into use.
- 10.14 The supporting lighting report indicates that the artificial pitch would be illuminated by 6 x 15m high lighting columns. However detail relating to the new location of the lighting columns for Pitch 3, on account of its re-alignment, have not been shared with the Local Planning Authority. By consequence, the condition recommended by Environmental Health would require information in respect of the location of all luminaires across the site, their hours of operation (15 minutes either side of the hours of use for customers), the methods for controlling the hours of operation, the lighting's predicted illumination area, their impact on any nearby habitable windows, as well as measures to minimise or eliminate glare or stray light that may arise beyond the boundary of the site. No lighting has been proposed for the existing car park, and should such a scheme be intended to be installed, its specification would be subject to inclusion within the details required by the artificial lighting condition.
- 10.15 The applicant has proposed that the hours of use for the outdoor areas are 0700-2200 hours Tuesday, Wednesday and Thursday with the remainder of the week being limited to 0700-2100 hours. Conversely, Environmental Health Officers have recommended that the site should operate with opening restrictions from 0800-2000 hours Monday to Friday, 0900-1800 hours on weekends and at no times on Bank Holidays. Given the need to balance the operational requirements of the Community Club with the amenity of surrounding residents, the following hours are proposed to restrict the use of outdoor areas: 0730-2100 hours Monday to Friday, 0900-2000 on Saturdays,

0900-1800 on Sundays and at no time on Bank Holidays. These times are considered to be fair to both the club and to local residents. The times would be restricted by condition.

- 10.16 The rationalisation of the car park provides 11 extra parking spaces through formalisation of its bays. Its reconfiguration will likely lead to improved performance and therefore fewer idling cars, which is likely to improve the situation for nearby residents on Hadrian's Close and New Hey Road with regard to air quality and noise from motor vehicles. The supporting Transport Statement sets out that the impact of the installation of the artificial pitch and the improved lawned pitches, though intensifying the use of the site, is unlikely to significantly increase traffic generation above the existing situation – this conclusion has been agreed by KC Highways Development Management Officers.
- 10.17 The creation of Pitch 3A and the re-siting of Pitches 3, A and G closer to residential boundaries are marginal alterations that are unlikely to significantly decrease the amenity of nearby residents. The condition restricting outdoor operational times should largely minimise adverse impacts in line with standard practice for preserving residential amenity. Redundant timber lighting columns for Pitch 3 indicate that a previous pitch layout was in a similar location to where it is proposed under this application. Similarly, satellite imagery presents that Pitches 3A and G have been maintained and used informally in proximity to residential curtilages and dwellinghouses on Raiborn Avenue at the scale of area proposed under this application. As such, the uplift in impact on amenity through their formalisation would likely be marginal.
- 10.18 The recommended conditions enable the development to be considered acceptable in respect of noise and light as required by LP52 – Protection and Improvement of Environmental Quality. Consequently Officers are satisfied that the proposed intensification of use would not materially harm the amenity of neighbouring residents. Thus, this proposal is found to be in accordance with LP24 and LP52 of the Local Plan and Chapter 12 of the NPPF.

Highway and Transportation Matters

- 10.19 It is proposed to access the site from the existing point onto New Hey Road where the current carriageway width is 5.5m and the footway width is 1.2m. Visibility onto New Hey Road of 2.4m x 120m is achievable. However there is occasional parking to the right of the site access which can cause some visibility issues. To improve this situation the applicant has offered to fund a Traffic Regulation Order eliciting provision of double yellow lines at the site access, which would be considered an improvement. However the application is not reliant on this as it is a separate legal process which may or may not be successful. The Council's Highway Safety section are in support of this proposal though it would need to be unilaterally submitted by the applicant under a separate process directed at the KC Highways Section. There are no identified highway safety issues at the junction indicated by 'Crash Map' and, as Traffic Regulation Orders are covered by separate legislation, it would not be a legally sound approach to tie a planning decision under a separate legislative process that may or may not be successful.
- 10.20 It is anticipated that the proposal will not significantly increase traffic generation above existing levels. KC Highways Development Management requested that surveys of the existing traffic movements be provided to and from the site, to which the scoping was agreed prior to commencement. Pre Covid-19 surveys

have been conducted, details of which are provided in Appendix A of the supporting Transport Statement. To summarise, the peak vehicle movements to and from the site are between 16:00 and 17:00 on a Saturday generating 90 two way vehicle movements.

- 10.21 The existing car park would be reconfigured to improve the flow of vehicles in and out of the facility, this includes making a formal one-way system internally and the marking out into formal parking spaces. An indicative layout has been provided (dwg ref HUDD GIANTS PITCHES_MP4_10-9-21) dated September 2021, however a detailed scheme of this proposal is to be conditioned accordingly. In addition a car parking management plan would be requested to enable management of the on-site parking for any events where it is foreseen that the car park could be at capacity. Servicing arrangements shall remain as existing.
- 10.22 Preliminary supporting information points to elements of the pitch booking system being restricted during larger events to prevent or minimise overspill impacts onto the wider transport network. This would take the form of blocking-out bookings for certain pitches to reduce the likelihood of clashes in schedules where the site is over-capacity. It is envisaged this will be one of the main tools in the details required under the Car Park Management Plan. Other elements will include the promotion of active travel and a condition for cycle storage would be attached to
- 10.23 Given the above information and the recommended conditions provided by KC Highway Development Management, Officers' consider the development proposals to be in accordance with policies LP21 – Highways and Access, LP22 – Parking and LP24 - Design of the Local Plan, the Highways Design Guide SPD and Chapter 9 of the NPPF.

Arboricultural and Ecological Matters

- 10.24 The sportsground is heavily stocked with lines of mature trees, sometimes forming avenues along its access routes. The majority of trees on site are protected by the TPO 23a/02 and provide significant public amenity value whilst contributing to the character and setting of the area. Many of the groups of trees were considered Category B in the submitted tree survey but are arguably even better, category A, given the prominent landscape features they form.
- 10.25 The submitted drawing, New Synthetic Pitch Proposals, (ref. HUDD GIANTS PITCHES_MP4_31-1-22), sets out that 3 trees would be removed from the western edge of the proposed 3G pitch and 5 trees would be removed from the eastern edge of the 3G pitch. The 3 trees at the western edge of the pitch include a defective Ash tree and 2 suppressed Sycamores whereas the trees to be removed from the eastern edge include 1 Lime and 5 Sycamores. It is not usually acceptable to remove protected trees in an avenue feature. However, in this instance, it is considered that the removal of these trees will have minimal impact upon the overall tree cover in their respective parts of the site due to the depth of the avenues in which they are situated. KC Trees have also accepted that the removal of the cited trees enables a public benefit when judged in the planning balance.

- 10.26 Though indicative areas for replacement planting have been set out by the applicant in their supporting information, the specific detail relating to replacement tree planting that would be sufficient to mitigate for the loss of the mature trees remains outstanding. Likewise, further detail in respect of the impact of the wider works, including drainage of the artificial pitch, on the protected trees retained across the site also remain outstanding. Further consultation with KC Trees with regard to how to progress the application has yielded a recommendation of two conditions requiring the submission of an Arboricultural Method Statement and Landscape/Tree Planting details prior to works on the implicated trees. Officers are informed by the applicant that work is currently being undertaken to detail these matters and it is anticipated that Officers will be able to provide further information on this to Committee members through the Committee Update. Irrespectively, the current recommendation of securing details by condition, is determined to be a sound approach.
- 10.27 A Preliminary Ecological Appraisal (PEA) has been undertaken which makes recommendations for mitigation to protected species identified by site surveys set out therein. Compliance with the identified mitigation set out in Table 7 of the PEA is recommended by condition accordingly.
- 10.28 The application is not supported by a Biodiversity Net Gain metric, a condition is added to the recommended decision, as required by the Environment Act 2021 – Schedule 14, to ensure that the proposed development shall not be begun (or recommenced) until a biodiversity gain plan setting out the means of achieving a biodiversity net gain on site is submitted and approved by the Local Planning Authority.
- 10.29 Subject to the conditions recommended above, the proposed development is able to be found acceptable and in accordance with the requirements of policies LP30 - Biodiversity and Geodiversity and LP33 – Trees of the Local Plan and Chapter 15 of the NPPF.

Planning obligations

- 10.30 As set out in paragraph 10.16, the applicant is to finance a Traffic Regulation Order to enable improvements to visibility at the site's junction with New Hey Road. The financial sum to enable this is indicated to be £7,500.00. It is important to note that the application is not reliant on this as it is a separate legal process which may or may not be successful.

Representations

- 10.31 As previously outlined, 12 letters of representation have been received with regard to this proposal. The issues raised have been noted above and a response to each is summarised below:
- Impact of existing trees at end terrace of Hubert Street.

Officer Response: This matter is considered a separate maintenance issue and not directly relevant to the issues assessed under this planning application.

- Concerns in respect of hedge planting and lack of maintenance of the boundary adjacent to Hubert Street and Shannon Drive.

Officer Response: The hedge is to be installed to provide an improved boundary treatment in contrast to the brambles and scrub that characterise much of the existing boundary treatments.

- Lack of maintenance of trees on the site and the associated safety concerns with regard to fallen boughs.

Officer Response: This matter is a separate safety issue pertaining to maintenance of the trees by the landowner who ultimately has liability for the safety of patrons on their site. Irrespectively, trees are encountered across the borough and entire country – risks apply to any individual walking near to trees during high winds or stormy weather.

- Query regarding times of operation of the proposed artificial lighting, and;
- Unknown impact of re-sited lighting columns relative to residential properties on Shannon Drive and Moorland Crescent.

Officer Response: The new and re-sited luminaires are to be controlled via condition with details of their location and hours of operation to be agreed with the Local Planning Authority. The purpose of the condition is to maintain the amenity of local residents who may otherwise be adversely impacted by unrestricted floodlighting. The permissions 2007/90735 and 2014/93730 have restrictions relating to no operation of floodlights between the hours of 2130 and 0700 or 0900 (dependent on the specific permission). It is likely that the condition attached to the recommended decision would have similar hours of operation.

- Premature commencement of development

Officer Response: The works undertaken on the site to-date are at the risk of the applicant and landowner subject to gaining planning approval. Should permission be refused at Strategic Committee, it is possible that planning enforcement action could be taken by the Local Planning Authority to remedy the breach of planning control.

- Yellow lining of site junction with New Hey Road could create on-street parking problems for Hadrian's Close (multiple representations).

Officer Response: This is not being proposed under this application, as explained in section 10.19 above.

- Request for removal of redundant flood lighting adjacent to Shannon Drive and Moorland Crescent.

Officer Response: A condition is attached to the recommended decision requiring the removal of the cited redundant lighting columns.

- Loss of tree and shrub hedging to a property on Hadrian's Close with the knock on impact upon noise reduction and ecological habitat.

Officer Response: The removal of the hedging and shrubs along the site boundary is not covered under this application development and is considered routine

management of the Green Space designation in material planning consideration terms. Shrubs have a limited effect on noise transmission and the impact on habitat loss is likely to be marginal. Overall the impact on the affected property is likely to remain the same given that the formalisation and resurfacing of the car park will likely improve noise created by motor vehicles.

Other Matters

Air Quality

- 10.32 In an application of this nature it is expected that facilities for charging electric vehicles and other ultralow emission vehicles are provided, in accordance with policies LP24 and LP51 of the Local Plan, Chapter 9 of the National Planning Policy Framework and the West Yorkshire Air Quality & Emissions Technical Planning Guidance. Although, this information has not been submitted, it is considered that these measures would be secured by planning condition.

Climate Change

- 10.33 Chapter 12 of the Local Plan relates to climate change and states that: *“Effective spatial planning is an important part of a successful response to climate changes as it can influence the delivery of appropriately sited green infrastructure and the emission of greenhouse gases. Planning can also help increase resilience to climate change impact through the location, mix and design of development.”* This is also reflected in the NPPF as a core land use planning principle. The NPPF emphasis that responding to climate change is central to the economic, social and environmental dimensions of sustainable development. This application has been assessed taking into account the requirements summarised and provides opportunity for development that is considered to meet the dimensions of sustainable development.
- 10.34 Conditions have been attached to the recommended decision requiring the installation of Electric Vehicle Charging Points and Secure Cycle Storage. A detailed landscaping scheme is also anticipated, as well as a 10% biodiversity net gain which, taken together, should contribute toward reducing the existing use’s fossil fuel emissions.

Drainage

- 10.35 The Lead Local Flood Authority have reviewed the application and have recommended a condition requiring details of the surfacing of the car park to ensure that it is finished with a permeable material that would allow rainwater to go to ground to prevent an outfall to public sewer thereby preventing an unnecessary increase in demand on the local drainage infrastructure. The recommended condition enables the development to be found in accordance with LP27 – Flood Risk and LP28 – Drainage of the

11.0 CONCLUSION

- 11.1 This proposal has the potential to improve the health and wellbeing of the local community by providing enhanced sports facilities. Though some detail is still lacking, particularly in respect of noise, lighting, tree impacts and biodiversity, it is not considered that these matters warrant a refusal or permission in this instance as these material considerations are able to be dealt with via appropriately worded conditions.

- 11.2 The premature commencement of development on the site is unfortunate. However, it is understood that works are currently in abeyance on-site in advance of works to protected trees being agreed through the conditions made in the Officer recommendation. The recommended decision and its conditions would not allow development to resume (which could implicate the trees identified for removal or pruning) until satisfactory arboricultural methods, replacement planting and site-specific details are submitted. Similar restrictions are applied to the lighting, noise and biodiversity conditions.
- 11.3 Overall the situation on-site is reflective of the need for the applicant to use the proposed development for the training of their various teams as soon as possible and Council Officers have responded pro-actively to this given that the enhancement to Sports facilities have a limited impact on adjacent amenity when controlled by condition while they have the potential to significantly benefit the local community.
- 11.4 Officers therefore recommend to Strategic Committee that application 2021/93645 is delegated the approval and the issuing of the decision notice to the Head of Planning and Development whilst securing a Section 106 agreement to cover the provision of a sum of £7,500 to secure a Traffic Regulation Order for highway safety purposes.

12.0 Conditions

1. Development to be carried out in accordance with approved details.
2. Car Park Layout Details (Prior to development being brought into use)
3. Car Park Management Plan (Prior to development being brought into use)
4. Car Park Surfacing (Prior to commencement of development of the car park)
5. Secure on-site Cycle Storage (Prior to the development being brought into use)
6. Development to be conducted in adherence to the recommendations made in the Preliminary Ecological Appraisal.
7. Artificial Pitch Shockpad Specification and Maintenance
8. Artificial Pitch Markings Submission and Implementation (Prior to Completion)
9. Artificial Pitch Risk Assessment (Prior to the development being brought into use)
10. Submission of a Noise Assessment Report for proposed noise generating use close to existing noise sensitive premises (Prior to the Artificial Pitch and Pitch 3 being brought into use)
11. Hours of Use Restrictions for Customers
12. Noise Management Plan (Prior to the Artificial Pitch and Pitch 3 being brought into use)
13. Ball Impact Sound Mitigation
14. External Artificial Lighting Details (Prior to the operation of any new or re-sited luminaires on the site)
15. Electric Vehicle Charging Points (Prior to commencement of development of the car park)
16. Construction Environmental Management Plan (Prior to works to remove the protected trees)
17. Submission of an Arboricultural Method Statement (Prior to works to remove the protected trees)
18. Submission and implementation of full landscaping scheme (Prior to the development being brought into use)
19. Submission of a Biodiversity Net Gain Plan (Prior to works to remove protected trees)

Background Papers:

Application and history files.

[Link to application details](#)

Certificate of Ownership –Certificate A signed:

Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 24-Mar-2022

Subject: Planning Application 2021/93073 Erection of energy storage facility contained within a fenced compound with associated landscaping and access works Land adj, Holme Bank Mills, Station Road, Mirfield, WF14 8NA

APPLICANT

Peter Walker, Energy
Optimisation Solutions

DATE VALID

04-Aug-2021

TARGET DATE

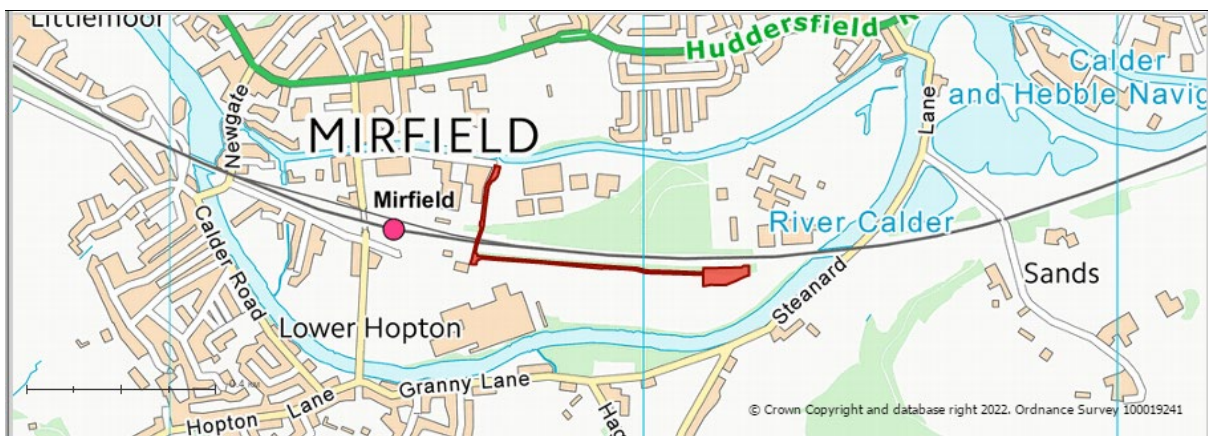
29-Sep-2021

EXTENSION EXPIRY DATE

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

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Mirfield

Ward Councillors consulted: Yes

Public or private:

RECOMMENDATION: Conditional full permission

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

1.0 INTRODUCTION:

1.1 The application is brought to the Strategic Planning Committee for determination under the terms of the Delegation Agreement, on the basis that the proposals are for non-residential development on a site in excess of 0.5ha.

2.0 SITE AND SURROUNDINGS:

2.1 The application site extends to approximately 0.7ha and is located on vacant land to the northwest of the Holmebank Business Park and south of the Huddersfield Railway Line, which runs in a west to east direction. Beyond the railway line, to the northeast of the site, are chemical works. Immediately to the south is a vacant field, beyond which lies the River Calder.

2.2 The site is stated *“to have previously been used in connection with the adjacent railway line and comprise of areas of hard standing and scrub vegetation”*. The periphery of the site benefits from semi mature vegetation and forms part of the Wildlife Habitat Network (WHN), a strategic green infrastructure network along the River Calder Corridor. It lies to the southwest of the Wheatleys Viaduct, but is detached from this Grade-II listed structure.

2.3 Parts of the existing access track to the site, which is served from Hurst Lane, lies within Flood Zones 2, 3a, 3a(i) (SFRA) and 3b, along with a very small area in the north-east corner of the site lying in Flood Zone 2 (no development is proposed on this part of the site).

3.0 PROPOSAL:

3.1 The proposed development comprises an energy storage facility contained within a fenced compound with associated landscaping and access. The layout of the proposed development is shown in the Proposed Site Plan (Drawing no. GA/003). Proposed elevations of the development are also provided. The proposals are confirmed to store approximately 42MW of energy.

3.2 The equipment proposed comprises 18 high efficiency battery energy storage units (referred to as RSU on plans) and 18 inverter units (RIU on plans) housed within individual containers, each with a height of 3m. The proposals also include 1 substation with a height of 3m, 1 33kV/11kV TX Compound with a height of 5.76m, 1. RCU Unit with a height of 3m and 1 switch-gear container, also 3m in height. The battery containers are arranged in four rows, with the other equipment located in the southwest portion of the site. Whilst the final route of the power connection has not yet been confirmed, it is stated that the route intends to follow the railway line and will be located below ground where possible.

3.3 The supporting statement states that the battery energy storage facility will support the National Grid and provide electricity at times when demand rises

above generation and absorb excess electricity when demand is below the level of generation.

3.4 The above equipment would be sited within a fenced compound. The compound accessway running into the site would be constructed of hardcore. The compound will be surrounded by a security fence of 3.5m in height. Motion sensor CCTV would be provided as well as lighting for emergency purposes. Both CCTV and lighting is to be conditioned as the location and luminance levels have not been determined.

3.5 Access to the site is to be provided to the west of the compound, with an existing access track leading off Hopton New Road. Three car parking spaces are proposed within the site for staff carrying out maintenance. .

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 Other than a pre application enquiry reference 2021/20078 which was considered and advice given that the principle of the proposals could be supported, there is no other relevant history to this site.

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

5.1 The construction traffic management plan (CTMP) was revised twice during the course of the application, to address matters raised by the DM Highway Officers. The final CTMP is dated December 2021

6.0 PLANNING POLICY:

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

6.2 Kirklees Local Plan (2019):

LP1 – Presumption in favour of sustainable development

LP3 – Location of new development

LP7 – Efficient and effective use of land and buildings

LP21 – Highway and access

LP22 - Parking

LP24 – Design

LP26 – Renewable and low carbon energy

LP27 – Flood Risk

LP28 – Drainage

LP30 – Biodiversity and geodiversity

LP31 – Strategic green Infrastructure Network

LP32 – Landscape

LP33 – Trees

LP35 – Historic environment

LP51 – Protection and improvement of local air quality

LP52 – Protection and improvement of environmental quality

6.3 National Planning Guidance:

Chapter 12 Achieving well designed spaces

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

6.4 Supplementary Planning Guidance / Documents:

Highways Design Guide SPD (2019)

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)

6.5 Climate change

6.6 The Council approved Climate Emergency measures at its meeting of full Council on the 16th 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.

6.7 On the 12th 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.

6.8 Paragraphs 10.34 to 10.36 below are relevant which includes matters in relation to climate change.

7.0 PUBLIC/LOCAL RESPONSE:

7.1 Neighbour letters expired on 27th August 2021; Press advert expired on 9th September 2021; Site notice expired on 14th October 2021.

7.2 No representations received.

7.3 Ward Members have been consulted on the application. No response has been received.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

KC Highways Development Management - no objections subject to conditions

KC Lead Local Flood Authority – requested a sequential test and a flood plan. No objection to the proposed surface water plan.

The Environment Agency – no objection subject to development being carried out in accordance with the submitted Flood risk Assessment (FRA). This can be conditioned.

Network Rail – comments awaited

Health & Safety Executive – Do not advise against the granting of planning permission.

8.2 Non-statutory:

KC Ecology/biodiversity - No objection subject to the development being carried out in accordance with the submitted BMP and additional soft landscaping along the southern boundary of the compound.

KC Conservation & Design - The proposals would have no direct or indirect impact on any designated heritage assets.

KC Environmental Health – no objections subject to suggested conditions being imposed (EVCP, unexpected contamination & construction site working times)

KC Policy – no objections

KC Public Rights of Way – comments awaited

KC Trees – no objections subject to additional soft landscape condition

WY Architectural Liaison Officer – requested further clarity of works.

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Local Amenity issues
- Local Environmental issues
- Heritage matters
- Highway issues
- Flood risk and safe development issues:
- Representations
- Other matters
- Conclusion

10.0 APPRAISAL

Principle of development

- 10.1 Paragraph 7 of the National Planning Policy Framework (NPPF) states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 goes on to note that achieving sustainable development has three overarching objectives (social, environment and economic), and these are interdependent and need to be pursued in mutually supportive ways.
- 10.2 In line with the National Planning Policy Framework, Policy LP1 of the Kirklees Local Plan declares that: *"...the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF."*
- 10.3 Policy LP2 states that: *"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..."*
- 10.4 Policy LP3 of the Kirklees Local Plan outlines that proposals will be required to reflect the Spatial Development Strategy.
- 10.5 The site is predominantly surrounded by industrial uses located and unallocated for any specific use on the Local Plan. The proposals are considered to constitute an industrial process.
- 10.6 Local Plan policy LP26 supports renewable and low carbon energy proposals. In this instance the proposals for battery storage would avoid wastage of large volumes of renewable energy by facilitating renewable energy generation, which in effect would be decarbonising and enabling low carbon emissions.
- 10.7 Consequently, the principle of development proposed is therefore considered acceptable subject to there being no conflict with local plan policies or national planning policy guidance.

Urban design issues

- 10.8 The development proposed would comprise of a series of equipment as set out in paragraphs 3.1 to 3.5 above, to be contained within a fenced compound. Whilst the design of this development reflects its use and is purely utilitarian, it is considered that its location is such that it would not appear out of character with the wider surrounding built environment, which includes a range of industrial building designs and a variety of tall structures including Mill chimneys and mobile telephone masts.

- 10.9 Consequently it is considered that this proposal would accord with Policies LP3, LP24 and LP26(a) of the Kirklees Local Plan and national policy guidance contained in chapters 12 and 15 of the NPPF with regard to design principles.

Local Amenity issues

- 10.10 The closest residential property to the site is located approximately 145m to the southeast of the site, beyond the River Calder on Steanard Lane. The properties to the north south and west are at a significant distance from the application site, separated by existing industrial buildings and woodland. The periphery of the application site consists of semi mature vegetation, which screens the site from the surroundings. Due to the existing landscaping and buildings nearby residential properties are unlikely to gain significant views of the development. It is therefore considered that visual amenity of the occupants of those properties would not be significantly affected by this development.
- 10.11 In addition, the supporting statement states "*whilst cooling fans are to be located within the battery containers, the noise profile is stated would be low*". Other than the potential for unexpected contamination being found on site(to be addressed by condition), Environmental Health on assessment of the submitted information, raise no concerns in relation to noise, vibration, light, dust and odour.
- 10.12 Given the site's location away from residential properties and other sensitive uses, there would be no impact on residential or local amenity. Consequently, this development would accord with Kirklees Local Plan policies LP24 and LP26(d) and Section12 of the NPPF.

Local Environmental issues

- 10.13 The site forms part of the WHN and is covered by a Bat alert zone on the Councils geographical information system. It also forms part of the Strategic Green Infrastructure Network along the River Calder Corridor and consequently should deliver a Biodiversity Net Gain.
- 10.14 Chapter 15 of the NPPF relates to conserving and enhancing the Natural Environment. Paragraph 179 of the NPPF outlines that decisions should promote the protection and recovery of priority species, and identify and pursue opportunities for securing net gains for biodiversity. Paragraph 180 goes on to note that if significant harm to biodiversity resulting from development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
- 10.15 Policy LP30 outlines that development proposals should minimise impacts on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist. Policy LP30 also states that proposals will be required to safeguard and enhance the function of and connectivity of the Kirklees Wildlife Habitat Network at a local and wider landscape-scale unless the loss of the site and its functional role within the network can be fully maintained or compensated in the long term.

- 10.16 As the site falls within the Strategic Green Infrastructure Network, landscaping is necessary both to visually integrate the industrial fencing and structures into its context and demonstrate the achievement of Biodiversity Net Gain on site.
- 10.17 The submitted Biodiversity Management Plan (BMP) states:
- “the site does not support the floral species richness typical of brownfield sites / previously developed land; however, altering the structure of land within undeveloped areas of the Site would create opportunities for more diverse flora including plants, lichens and bryophytes and subsequently amphibians, reptiles, invertebrates and birds and bats”.*
- 10.18 The BMP sets out ecological enhancements measures to be carried out and an indicative monitoring & management schedule. These measures are welcomed. A condition will be imposed to ensure the works are carried out and implemented in accordance with the BMP to enhance and improve ecological interests within the site, should the committee be minded to approve the application.
- 10.19 On assessment of the proposals, the Council’s Tree and Biodiversity Officers raise no objections, particularly with the proposed ecological enhancement measures together with the existing vegetation on the periphery of the site to be retained. However, it is acknowledged that additional soft landscaping is required along the southern boundary not only to visually integrate the industrial fencing and structures into its context but also to the wildlife corridor in accordance with Policy LP30 of the Local Plan and guidance within the NPPF. It is therefore reasonable for these details to be dealt with by condition, to which the applicant is agreeable to.

Heritage matters

- 10.20 The Council has a statutory duty under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 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.
- 10.21 On assessment of the proposals, the Council's Conservation officer advises that:
- “the site is southwest of the Wheatleys Viaduct but is detached from the grade-II listed structure and makes no contribution to its appreciation or setting. The proposed development of enclosed battery storage would be similarly screened from the designated heritage assets and would have no adverse impact on the understanding or appreciation of the listed bridge. Consequently, the proposed development would have no direct or indirect impact on any designated or non-designated heritage assets”.*
- 10.22 It is therefore considered that the proposals would cause no harm to the significance of the designated heritage, in accordance with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and is compliant with Local Plan policy LP35 – Historic environment or Chapter 16 of the NPPF.

Highway issues

- 10.23 The supporting information states that the construction period is expected to be 26 weeks and the traffic generation is anticipated to be in the region 2320 two-way HGV and 2400 staff and light commercial vehicle movements. A total of 4720 two-way movements over the 26-week period averaging at 181 weekly and 36 daily movements. Times of use of the access are between 0.900 and 16.00 to avoid the peak hours for traffic.
- 10.24 DM Highway Officers required further information following an initial assessment of the proposals and the submitted transport statement accompanying the application. The final revised construction traffic management plan (CTMP) includes Swept Paths, pre and post construction road condition surveys, the use of a Banksman, as well as the requirement for all vehicles to be parked off the highway and within the site and details of access under the low bridge on Hurst Lane.
- 10.25 Subject to the development being carried out in accordance with the final submitted CTMP, DM Highway Officers raise no concerns in relation to highway safety and parking. Following the completion of the development, it is likely traffic generation to and from the site would be low, for maintenance purposes only. The proposals are therefore considered to comply with Policies LP20 and LP21 of the Local Plan and guidance in the NPPF.

Flood risk and safe development issues:

- 10.26 The access road to this site lies within Flood Zones 2, 3a, 3a(i) (SFRA) and 3b, while a very small part of the storage facility site is in Flood Zone 2 (no development is proposed on this part of the site). The proposal is considered to be defined as essential infrastructure, for vulnerability classification as set out in Table 2 of the NPPG. This is because the infrastructure compound provides an energy storage facility which balances services to the national grid and the applicants have justified clear operational reasons why this must be located in a flood risk area. Therefore, it is appropriate, only after the sequential test has been passed.
- 10.27 The Local Plan Policy LP27 (flood risk) states that the whole Kirklees district should be the starting point for the sequential test with applicants required to provide justification where a smaller area of search is proposed, each case will be assessed on its merits.
- 10.28 The sequential test received provides the following justification for a smaller area of search:
- 10.29 In order for an energy storage connection to be viable, the point of connection (in this case the Thornhill Power Station to the northeast of the site) must meet the following criteria:
- It must be located on a part of the electricity network that has available capacity;
 - It must be located at a strategic substation; and
 - It must be located at a substation with available demand capacity.

- 10.30 Also as the proposal is for an energy storage facility, site sources, should be:
- Unallocated sites
 - Undeveloped sites
- 10.31 The applicant searched areas free from designations and development, which are large enough to accommodate the proposed development (approx. 0.7ha required). Therefore, it is considered all available sources of potential sites have been explored.
- 10.32 The site of the energy storage facility itself must be in close proximity to the point of connection. The connection is approximately 1.7km from the application site, which is at the very limits of where a connection is viable. Also, an area large enough to accommodate the proposed development is required. In this instance, approximately 0.7ha. Officers accept the justification for this area of search given the nature of the development proposed and are satisfied that all available sources of potential sites have been explored.
- 10.33 An exception test should be applied following application of the Sequential Test. This should show that the wider sustainability benefits to the community outweigh flood risk and provide evidence to show that the proposed development would be safe and that any residual flood risk can be overcome to satisfy the requirements of the Exception Test as set out in Para 159, of the NPPF.
- 10.34 The applicant states that this proposal is for a type of low carbon development that is inherently sustainable; the facility will store energy from the National Grid at times of high production and low use and release it back to the National Grid at times of higher need; thus energy is not lost.
- 10.35 The applicant goes on to say that:

'Energy storage technology makes a valuable contribution to energy security and supply, and as more of these facilities are deployed, they reduce the need for new fossil fuel power generation to come online. As renewable energy production is intermittent (since it relies on atmospheric conditions), energy storage capabilities mean that the energy produced by renewables is not lost, and therefore they allow more renewable energy to come online.'

- 10.36 Given this and having regard to the objectives in the Local Plan's Sustainability Appraisal Framework, which include:
- Reduce air, water and soil pollution
 - Reduce the contribution that the district makes to climate change

it is considered that the proposed development scores positively against the aims and objectives of the Local Plan Sustainability Appraisal in that it will contribute to the wider sustainability benefits to the community that outweigh flood risk.

Safe development

- 10.37 The developer must provide evidence to show that the proposed development would be safe and that any residual flood can be overcome to the satisfaction of the local planning authority.

- 10.38 Mitigation proposals are set out in the submitted 'Drainage Strategy Incorporating an Assessment of Flood Risk' and Planning Statement, against the possibility of isolated flooding should it occur. These include:
- The flood levels of the substation and switchgear stations to be set a minimum of 300mm above the existing ground levels.
 - The battery storage units are to sit on individual bases and raised a minimum of 300mm above the existing ground level.
- 10.39 Provided the development is carried out in accordance with the mitigation measures along with electric connections to be and associated control equipment to be set at a minimum height of 600mm above ground level to reduce the risk of damage occurring, the proposals are considered would be safe.
- 10.40 In relation to the access road, the highest recorded flood level adjacent to the site was in December 2015. The EA has provided a flood history map that shows the extent of the flooding. The extent of the flooding in 2015 did not affect the site of the battery storage facility and only affected the access road at its junction with Hurst Lane.
- 10.41 The applicant has said that the site will be unmanned and therefore access and maintenance will be planned to avoid peak storm events, thus minimising risk to operatives alleviating the need for a flood plan. This matter can be addressed by a condition.
- 10.42 To summarise the sustainability benefits associated with this development and the site to be unmanned except for maintenance purposes together with any residual flood risks matters being addressed, including the requirement for safe access and egress to the site, the Exceptions Test is passed, in accordance with Local Plan Policy LP27 and guidance in the National Planning Policy Framework.

Representations

- 10.43 None received

Other Matters

Unexpected contamination

- 10.44 To ensure that any unexpected contamination is dealt with appropriately and to protect the future occupants of the development from any risk of contamination Environmental Services has recommended a condition to deal with any unexpected contamination encountered during the construction phase, to accord with Local Plan policy LP53 and guidance within Chapter 15 of the National Planning Policy Framework.

Construction Site Working Times

- 10.45 A condition to restrict the construction working times is also recommended by Environmental Services, in the interests to protect nearby sensitive noise receptors and to accord with Local Plan policy LP52 and guidance within the National Planning Policy Framework.

Electric Vehicle Charging Points

10.46 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 a charging points scheme (in accordance with the Environmental Health comments dated 20th August 2021) would be necessary if the application were to be approved.

Artificial Lighting & CCTV poles

10.47 The submitted planning statement at paragraph 5.4 states motion sensor CCTV and lighting for emergency purposes. However, details of the location of the poles for motion sensor CCTV and lighting including luminance levels were not available during the course of the application. Therefore, the applicant is agreeable for these matters to be addressed by condition. These measures and details are required to protect amenity of nearby sensitive receptors including the wider WHN and Strategic green Infrastructure and also welcomed by the WY Police Architectural Liaison Officer from a secure by design aspect.

11.0 CONCLUSION

11.1 The proposal would provide a useful facility for the storage of electricity at peak times which would help manage demand on the Grid. It is considered that, whilst utilitarian, the design of the proposal is acceptable. Impacts on local amenity associated with this proposal are considered to be acceptable or could be mitigated to an acceptable level. The development will be served by existing access arrangements and will provide adequate parking facilities within the site, and it is therefore considered that it would not adversely affect the local highway network. Furthermore, it is considered that subject to conditions the proposal would have no significant detrimental impact on the area's local environment and can be accessed safely for maintenance purposes.

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

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

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

1. Time limit (3 years)
2. Development in accordance with the approved plans
3. Enhancement and monitoring management measures as set out in the Biodiversity Management Plan (BMP) to be adhered to
4. Details of additional soft planting along southern boundary to submitted and approved
5. Fencing details to be submitted and approved
6. All construction shall be carried out in accordance with the approved Highways Traffic Management Plan (December 2021) throughout the period of construction.

7. No more than of 20 heavy vehicle movements (10 in 10 out) per day shall take place at the site in each working week (Monday – Saturday)
8. Prior to the development being brought into use, the proposed car park shown on Proposed Site Plan number GA/003 hereby approved shall be laid out surfaced, marked out into bays and drained in accordance with details that have previously been approved in writing by the Local Planning Authority
9. Proposals to be carried out in accordance with measures set out in the submitted 'Drainage Strategy Incorporating an Assessment of Flood Risk' and Planning Statement
10. Access and maintenance within the site to be scheduled to avoid peak storm events
11. Electric connections to be and associated control equipment to be set at a minimum height of 600mm above ground level
12. Dealing with unexpected contamination
13. Restricting construction working times
14. Details of electric vehicle charging point/s to be provided and approved prior to installation of any electrical system on site
15. Details of lighting scheme including luminance and location of poles to be provided and approved prior to installation.
16. Details of CCTV location of poles to be provided and approved prior to installation

Background Papers:

Application and history files. See assessment above

Website link to be inserted here:

[Link to application details](#)

Certificate of Ownership – the application is accompanied by Certificate C

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Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 24-Mar-2022

Subject: Planning Application 2021/92486 Erection of 5 buildings for a mixed use of educational, agricultural and community uses former Spensborough Wastewater Treatment Works, Smithies Lane, Heckmondwike, WF16 0PN

APPLICANT

H Cook

DATE VALID

18-Jun-2021

TARGET DATE

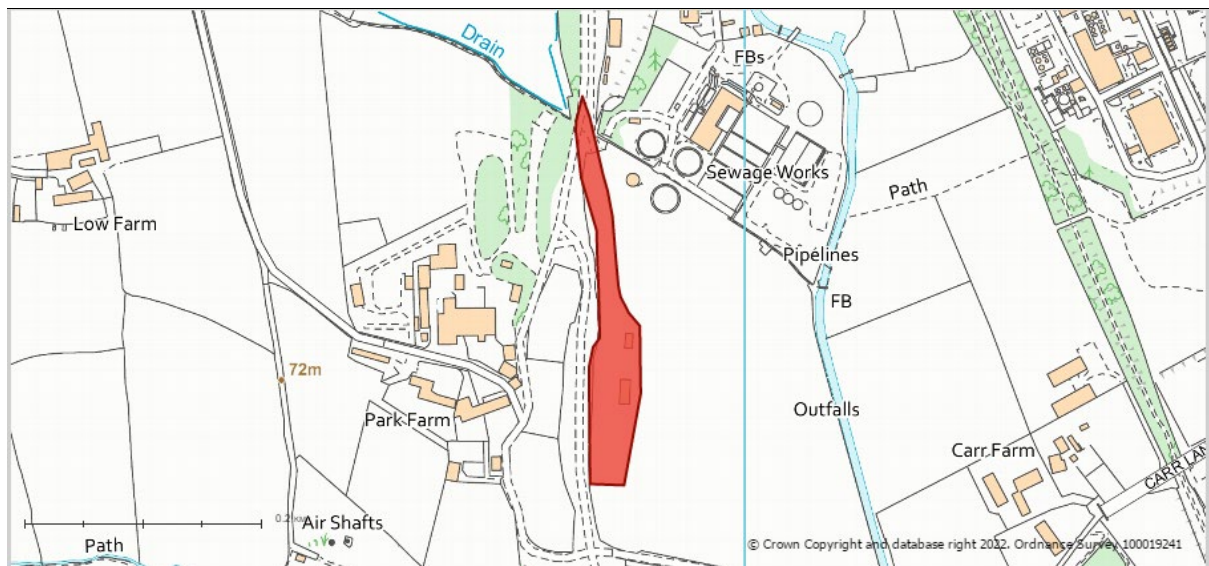
13-Aug-2021

EXTENSION EXPIRY DATE

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

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Heckmondwike

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

REFUSE

1. The proposed development of five new buildings on previously undeveloped land within the Green Belt would represent inappropriate development which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The buildings would result in significant impacts on openness and harm to the character and appearance of the Green Belt. The considerations that have been put forward by the applicant, individually or cumulatively do not outweigh the harm to the Green Belt and therefore, the very special circumstances that are necessary to justify this inappropriate development in the Green Belt do not exist. The development would therefore conflict within guidance at Chapter 13 of the National Planning Policy Framework.

2. The visual harm of the proposal buildings, via their scale, quantity, urban design and siting in a rural landscape is considered detrimental and unacceptable to the rural character with regard to visual amenity. The associated benefits are not considered to outweigh this harm. To permit the development would also be contrary to Local Plan policies LP24 and Chapter 12 of the National Planning Policy Framework.

3. The proposed development lies within the Kirklees Wildlife Habitat Network and the Strategic Green Infrastructure Network, Insufficient information has been provided within the application to demonstrate that the proposal would minimise impact on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist, or safeguard and enhance the function and connectivity of the Kirklees Wildlife Habitat Network. For this reason, it is considered to be contrary to Local Plan policy LP30 and Chapter 15 of the National Planning Policy Framework.

1.1 The application has been bought before the Strategic Planning Committee given that the site exceeds 0.5ha in size and is non-residential.

2.0 SITE AND SURROUNDING

2.1 The application site extends to 0.7 ha and comprises of land to the western part of the former Spenborough Wastewater Treatment Works. The wider site is 6.1ha and originally contained 28 circular concrete filter beds and associated infrastructure including walkways, water tanks and ancillary buildings.

2.2 The site was redundant for several years and following a planning permission granted in 2014, the infrastructure has since been demolished and removed from site and the resultant site being partially landfilled and landscaped. It is now considered to be a Greenfield site having regard to the definition in the NPPF that excludes the following from the definition of previously development land: land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.

- 2.3 The application site is also set within the allocated Green Belt as well as within the Kirklees Wildlife Habitat Network and the Strategic Green Infrastructure Network as set out in the Kirklees Local Plan.
- 2.4 The application site is set to the west of the main treatment works site and did not previously contain any equipment associated with the treatment works. It was development land (not quite sure what you mean by development land? - not sure you need this paragraph?) prior to this retrospective planning application. The landscaping referenced in paragraph 2.1 included the removal of grass and shrubbery to the application site.
- 2.5 The application site is located off Smithies Lane and is bounded to the east by the River Spen, public rights of way Spe/141/30 to the north and Spe/143/30 to the south and by the access road to the Ponderosa Therapeutic Centre to the west.

3.0 PROPOSAL

- 3.1 The application is seeking permission for the erection of 5 buildings for a mixed use of educational, agricultural and community uses.
- 3.2 The proposed uses of each building, as set out by the agent, are as follows:
- Building 1 – Security building with two floors (sui generis) (does this include any accommodation?)
 - Building 2 – open side agricultural building together with cardboard recycling (agricultural use / class E)
 - Building 3 – agricultural style building used for project workshop and training (class F1)
 - Building 4 – training and education use (class F1)
 - Building 5 – Feed store (agricultural use)
- 3.3 The full details of the dimensions, design, scale and materials of each building can be found within the submitted plans. The application is retrospective and therefore the buildings can also be seen on site.
- 3.4 The site will be access via vehicle from the existing unadopted access track from Smithies Lane. Access via foot can be gained from footpath SPE/143/30. The buildings would be used for projects and schemes ran by the site owner. The uses will be discussed further where relevant in the report. The landscaping currently ongoing on the site, which represents an expansion to Ponderosa Zoo is not a part of this application.

4.0 RELEVANT PLANNING HISTORY

- 4.1 2021/90599 – Erection of open sided agricultural buildings – withdrawn.
- 2021/90156 – Change of use of land and erection of 2 buildings – withdrawn.
- 2020/92608 – Change of use of land and erection of 2 no. security and management buildings and 1 no. educational workshop building – withdrawn.

2019/20493 - Pre-application advice sought for the erection of 3 buildings associated with the adjacent Ponderosa Zoo. In summary, the applicant was advised that the buildings represented inappropriate development in the Green Belt and there were no other considerations in favour of the proposal that clearly outweighed the harm arising from inappropriateness such that it was felt the buildings could not be supported based on the evidence submitted with the pre-application.

2018/93292 – Non material amendment on previous application 2014/91575 for demolition of existing filter beds. Land fill site and change of use from redundant sewerage beds to agricultural land – approved.

2017/91470 – Variation of condition 3. (time limits) on previous permission no.2014/91575 for demolition of existing filter beds. Land fill site and change of use from redundant sewerage beds to agricultural land – approved.

2014/93869 - Discharge of conditions 10 (Vehicle Management Plan, 11 (Surfacing & Drainage), 12 (Phase One Report), 17 (Scheme for Removal of Suspended Solids), 18 (Construction & Environment Statement), 19 (Land Stability), 24 & 25 (Demolition & Landfill Sequence) – approved.

2014/91575 – Demolition of existing filter beds. Landfill site and change of use from redundant sewerage beds to agricultural land – approved.

2011/91155 – Erection of an agricultural storage barn – withdrawn (invalid)

90/06826 – Erection of parameter security fence – approved.

5.0 HISTORY OF NEGOTIATIONS

- 5.1 The case officer visited the site and discussed the matters with the applicant and two other interested parties. The agent was not present. The officer raised the Green belt concerns to the applicant and explained that very special circumstances would be required if officers were going to be able to support the application given the uses are not acceptable in the Green Belt setting. The Authority later received a few written testimonials from those who use the site of how it helps their wellbeing. Given the Green Belt issues, the retrospective nature of the application and the long planning history, it was considered beneficial to all parties that a decision should be made of the currently information submitted. Officers do not consider that any amendments or additional justification could overcome the concerns raised.

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 20th July 2021).
- 6.2 The application site is set within the allocated Green Belt as well as within the Kirklees Wildlife Habitat Network and the Strategic Green Infrastructure Network as set out in the Kirklees Local Plan.

Kirklees Local Plan (2019):

- 6.3 LP1 - Presumption in favour of sustainable development
LP21 - Highway safety and access
LP22 - Parking
LP24 - Design
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
LP54 - Buildings for agriculture and forestry

National Planning Guidance:

- 6.4 Chapter 6 - Building a strong, competitive economy.
Chapter 12 - Achieving well designed places.
Chapter 13 - Protecting Green Belt land.
Chapter 14 - Meeting the challenge of climate change, flooding and coastal change.
Chapter 15 - Conserving and enhancing the natural environment.
Chapter 16 - Conserving and enhancing the historic environment.

Supplementary Planning Guidance / Documents:

- 6.5 • Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
• Highway Design Guide SPD (2019)
• Planning Applications Climate Change Guidance (2021)
• Biodiversity Net Gain Technical Advice Note (2021)

7.0 PUBLIC / LOCAL RESPONSE

- 7.1 The application was advertised by neighbour notification letters, in the press and by a site notice. Final publicity expired on 4th August 2021. One representation was received, which was a collection of five letters in support of the scheme. In summary this listed several benefits to the scheme which have been set out in full below, within the assessment section of the report.
- 7.2 Ward members were made aware of the application in June 2021. No representations were received from ward members.

8.0 CONSULTATION RESPONSES

- 8.1 Below is a brief summary of the consultation responses received. These comments will be discussed in further detail where relevant later on in the assessment.

KC Highways Development Management – no objections

KC Environmental Health – requested more information regarding foul drainage. Suggested conditions relating to land contamination, electric vehicle charging points, external artificial lighting, cooking pollution and hours of use.

The Coal Authority – no comments received.

9.0 MAIN ISSUES

- Principle of Development in the Green Belt
- Design
- Residential Amenity
- Highway Safety
- Ecology
- Contaminated Land
- Carbon Budget
- Artificial Lighting
- Representations

10.0 APPRAISAL

Principle of Development in the Green Belt

- 10.1 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).
- 10.2 The site is located within the Green Belt on the Kirklees Local Plan. The wider site used to host the water treatment plant. However, the land where the proposed building would be sited did not host any built form and was a separate, clearly distinguishable parcel of land. This land where the buildings are proposed is therefore considered undeveloped Greenfield land. This is evidenced by the aerial images shown in appendix 1 at the end of this report.
- 10.3 The NPPF confirms that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence Paragraph 147 of the NPPF stipulates that as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In paragraph 148, it goes on to state that Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Paragraph 149 stipulates a Local Planning Authority should regard the construction of new buildings as inappropriate in the Green Belt there are exceptions to this, as listed in paragraph 149 and set out within policies LP54 to LP60 of the Kirklees Local Plan. However, as outlined at Paragraph 3.2 of this report, the proposed uses comprising Building 1 (security), building 3 (project workshop), building 4 (training and education) are clearly not covered by any of the exceptions and therefore . represent inappropriate development within the Green Belt.

- 10.4 Buildings 2 and 5 are labelled as agricultural use. However, no agricultural use has actually been demonstrated nor does any agricultural use appear to exist on the site. Local Plan policy LP54 states:

'Proposals for new buildings for agriculture and forestry will normally be acceptable, provided that;

- a. the building is genuinely required for the purposes of agriculture or forestry;
- b. the building can be sited in close association with other existing agricultural buildings, subject to the operational requirements of the holding it is intended to serve. Isolated new buildings will only be accepted exceptionally where there are clear and demonstrable reasons for an isolated location.'

The applicant has failed to meet the requirements of points a or b. There is no record or evidence any historical agricultural use nor is the site currently used for agriculture. The agent has not set out any desired future agricultural use either. Therefore, insufficient evidence has been provided to indicate that the proposed buildings are clearly not required for the purposes of agriculture or forestry. For record, the keeping of zoo animals, given the links to Ponderosa Zoo, which has been proposed, is not an agricultural use as per the definition set out section 336 of the Town and Country Planning Act. To meet this definition, the animals must be livestock which are animals raised in an agricultural setting to provide labour and/or commodities such as food and goods. The keeping of animals on the site is for 'visitors to learn about, or children to interact with or simply see animals grazing in a field' as stated by the agent, cannot be considered an agricultural use whatsoever. For these reasons buildings 2 and 5 do not benefit from the exceptions set out in paragraph 149 of the NPPF and Local Plan policy LP54 and would also represent inappropriate development in the Green Belt.

- 10.5 The buildings themselves, through the spread out positions, form, scale and layout on prominent Green Belt land would material harm the openness of the Green Belt. The structures, which are of an urban design and substantial scale, appear visually dominant in the setting, and out of character with the rural character and landscape. The development therefore causes material and detrimental harm to the undeveloped Greenfield Land set within the allocated Green Belt through the harm to the openness. Given this level of harm to the openness and the fact that no exceptions cover the development, all the proposed buildings must be assessed as to whether the harm to the Green Belt by reason of inappropriateness and openness, is clearly outweighed by very special circumstances as set out by paragraph 148.
- 10.6 The agent has set out very special circumstances, to overcome the harm generated through inappropriateness and visual development, in the form of community benefits associated with the proposed development. The case has been set out via the letters submitted in support and discussions between the Authority, agent and applicant. These community benefits come from the proposed development being a place for people to come to together who have struggled with personal issues; an education facility for local school and children's groups; and, the use of the site for projects relating to local events and community groups. Officers acknowledge these potential benefits, however, somewhat unfortunately, these do not outweigh the harm to the Green Belt in the planning balance. Many of the 'benefits'/very special circumstances set out are based upon word of mouth and subjective. There is also no reason whatsoever as to why scheme of this nature, with said

benefits, can't be elsewhere, not upon Green Belt land. Given this, the very special circumstances set out by the agent are not considered to outweigh the significant, and unacceptable harm to the Green Belt.

- 10.7 Officers also acknowledge the justification provided for the need of a security building due to break ins. However, as this application is retrospective, there is no lawful development on this site that needs 24/7 security. Furthermore, this is a separate planning unit to Ponderosa Zoo and if security is due to break ins at the Zoo, the security accommodation should be provided within the Zoo's planning unit. Finally, the security accommodation also benefits from a basement and essentially acts as a dwelling gives its size and design. Even if there were a security need, this would be deemed excessive in scale, notwithstanding the Green Belt setting. For this reason, the security benefit is not considered to outweigh the harm to the Green Belt either.
- 10.8 In conclusion, inappropriate development is, by definition, harmful to the Green Belt. The proposed siting of the five buildings is therefore harmful to the Green Belt via inappropriate development and via visual amenity for the reasons set out above. The claimed very special circumstances do not outweigh this harm in the slightest. Therefore, the proposal is considered to constitute inappropriate development in the Green Belt whereby no very special circumstances which outweigh the harm have been demonstrated. To approve the application would impact adversely upon the openness of the Green Belt contrary to 13 of the National Planning Policy Framework.

Design

- 10.9 Local Plan policy LP24 states that 'Proposals should promote good design by ensuring: a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape.' The proposed design and siting of the buildings causes significant harm to the rural landscape. Whilst the design of each building varies, typically, the proposed buildings are of a large scale and of an urban design. This is evidenced by the modular form of the educational and security building, typical seen in urban setting such as schools. The workshop building is also in a form typically seen on an industrial site. These buildings do not respect the rural landscape and are set in a prominent position on a high bank of a valley, and in view of a public right of way to the north of the site. In the planning balance, the visual harm of the proposed buildings is also considered detrimental and unacceptable, due to their siting, scale and urban design to the rural character. To permit the development would also be contrary to Local Plan policies LP24 and Chapter 12 of the NPPF on design grounds too.

Impact on Residential Amenity

- 10.10 Local Plan policy LP24 states that proposal must ensure a good standard of amenity for neighbouring occupiers. The closest dwelling is set 70m away from the application site, to the west, with dense boundary treatment and a change of levels between. Given this, the development would not materially impact on the amenity of any dwellings through the day. However, when background noise levels are low during the night, noise could cause harm to these dwellings. Thus, subject to an hours of use operation, the scheme is acceptable on residential amenity grounds.

Impact on Highway Safety

- 10.11 The site is to use the existing access from Smithies Lane. The application is, in part, retrospective. Highways Development Management consider that the proposal is not anticipated to generate significant volumes of traffic given the proposed uses. Therefore, the proposals are considered acceptable to Highways Development Management and are deemed to accord with Local Plan policies LP21 and LP22 and Chapter 9 of the NPPF.

Ecology

- 10.12 The application site is set within the Kirklees Wildlife Habitat Network and the Strategic Green Infrastructure Network as set out in the Kirklees Local Plan. No ecological information has been submitted with the application above and therefore this assessment is made on the limited information available. Based on the history of the site there is a risk of ecological harm due to the development proposals however, there are significant opportunities to restore biodiversity to the site and ecological connectivity of the wider landscape. Furthermore, as the waterworks were removed, greenery, shrubs and other habitats were removed unnecessarily, as shown by appendix 1 at the bottom of the report. Prior to 'restoration' of the wider water treatment site, the application area, as shown by the red line boundary, was valuable to the Kirklees Wildlife Habitat network and is still designated as such. Previous proposals (2014/91575) included creating habitats to encourage recolonisation by barn owl.
- 10.13 Given that no ecological information has been submitted, it cannot be stated that the application has sought to minimise the impact on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist or safeguard and enhance the function and connectivity of the Kirklees Wildlife Habitat Network as required by Local Plan policy LP30 and Chapter 15 of the NPPF. Therefore, due to insufficient information and considering the wider recommending, this lack of insufficient information is put forward as a further reason for refusal. Nonetheless, if members did seek to approve the application, a condition could be sought for ecological design strategy (EDS) to be submitted with 3 months and the measures implemented to be implemented within a further 3 months after agreement with the LPA.

Contaminated Land

- 10.14 Our records indicate that the site is on and adjacent potentially contaminated land due to the former use including but not limited to landfill, Park Farm Colliery and a sewage works (site references 286/5, 288/5 and 289/5). We have significant concerns that due to the historical site use that high-risk source-pathway-receptor linkages may be present at the site which may present a serious environmental health risk to site operatives and future users of the site. Risks from contaminated soils, shallow coal and the ingress of ground gases into the enclosed buildings may pose a risk to the sites end-users.
- 10.15 Whilst remediation measures are typically straightforward to implement during the construction phase, the retrofitting of remediation measures, for example gas protection membranes in existing buildings can be unfeasible. Where necessary remediation measures cannot be implemented and site occupiers may be exposed to unacceptable environmental health risks, demolition may

be required. So, the applicant must demonstrate that all contaminated land risks for all receptors related to the sites proposed use have been fully risk assessed and addressed. For these reasons, contaminated land conditions are necessary if the application is to be approved.

Carbon Budget

- 10.16 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.
- 10.17 Highways Development Management note that no parking provision is indicated in the application forms. However, it is considered that parking will be required for staff and visitors. 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 a charging points scheme would be necessary if the application were to be approved.

Artificial Lighting

- 10.18 No information has been provided regarding external lighting of the facilities., However, in the event that the application was recommended for approval, it is considered that this matter could be addressed by then a condition i to stop glare and stray lighting causing a loss of amenity to nearby residential properties.

Foul Drainage

- 10.19 It is unclear whether a mains drainage system is available for the development. Our records indicate the development is c.300 metres away from the nearest sewer. For this reason, a foul drainage report is required via condition if the application were to be approved.

Drainage at Food Premises

- 10.20 It is unclear from the application what type of staff facilities will be provided. Should this include a kitchen/canteen, it is possible that fats, oils, and grease enter the drainage network. Should these build up, they may block the sewerage system. Consequently, blockages can lead to the leakage of foul sewage or the internal flooding of properties or of neighbouring areas. For that reason, a condition would be required in relation to the prevention of these substances in the drainage network if the application were to be approved.

Representations

- 10.21 The application was advertised by neighbour notification letters, in the press and by a site notice. Final publicity expired on 4th August 2021. One representation was received, which was a collection of five letters in support of the scheme. In summary this listed several benefits to the scheme which have been set out in full below, within the assessment section of the report.
- 10.22 Ward members were made aware of the application in June 2021. No representations were received from ward members.

11.0 CONCLUSION

- 11.1 The proposed siting of the five buildings is inappropriate development in the Green Belt. Such inappropriate development is, by definition, harmful to the Green Belt. Furthermore, the design, form and layout causes material and detrimental harm to the Green Belt. For the reasons set out in the report, the claimed very special circumstances do not outweigh the significant harm to the Green Belt in terms of openness and inappropriateness and the reasons for including land within it. Furthermore, the urban form of the buildings causes harm visually along with the siting and scale harming the openness and character of the Green Belt and landscape. Additionally, no ecological information has been submitted and thus, considering the removal of habitat already, the proposal is not considered to have demonstrated a biodiversity net gain. To permit the development would therefore be contrary to LP24, LP30 and LP55 of the Kirklees Local Plan as well as the aims of Chapters 12, 13 and 15 of National Planning Policy Framework.
- 11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.3 This development has been assessed against relevant policies in the NPPF, development plan and other material considerations. It is considered that the development would not constitute sustainable development and is, therefore, recommended for refusal.

12.0 RECOMMENDATION:

REFUSE FOR THE REASONS SET OUT AT THE BEGINNING OF THIS REPORT.

Background Papers:

Current Application to which the report relates (2021/94286):-

[Link to application details](#)

Certificate A was signed 15/06/2021

Appendix 1 – Aerial Images of the Site



Figure 1 - aerial imagery from 2009



Figure 2 - aerial imagery from 2012



Figure 3 - aerial imagery from 2018 after the water works had been removed.



Figure 4 - aerial imagery from 2021. The proposed building can be seen in situ to the west (left).