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Wednesday 22 February 2023

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 2 March 2023**.

This meeting will be live webcast. To access the webcast please go to the Council's website at the time of the meeting and follow the instructions on the page.

(A coach will depart the Town Hall, at 10.00 a.m. to undertake site visits. The consideration of planning applications will commence at 1.00 pm in the Council Chamber.)

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

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

Julie Muscroft

Service Director – Legal, Governance and Commissioning

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

The Strategic Planning Committee members are:-

Member

Councillor Steve Hall (Chair)
Councillor Bill Armer
Councillor Paul Davies
Councillor Carole Pattison
Councillor Andrew Pinnock
Councillor Mohan Sokhal
Councillor Mark Thompson

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

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

Green

K Allison
S Lee-Richards

Independent

C Greaves
A Lukic

Labour

A Anwar
M Kaushik
E Firth
T Hawkins

Liberal Democrat

A Munro
PA Davies
J Lawson
A Marchington

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 - 2

To approve the Minutes of the meeting of the Committee held on 26th January 2023.

3: Declaration of Interests and Lobbying

3 - 4

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

4: Admission of the Public

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

5: Public Question Time

To receive any questions in accordance with Council Procedure Rule 11.

6: Deputations/Petitions

The Committee will receive any petitions and hear any deputations from members of the public.

A deputation is where up to five people can attend the meeting and make a presentation on some particular issue of concern, subject to the provisions of Council Procedure Rule 10. All deputations should be submitted at least 24 hours prior to the meeting.

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.

7: Planning Applications

5 - 6

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 no later than 5.00pm** (for phone requests) or 11:59pm (for email requests) on **Monday 27th February 2023**.

To pre-register, please email governance.planning@kirklees.gov.uk or phone Sheila Dykes or Andrea Woodside on 01484 221000 (Extension 73896 or 74993).

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.

8: Site Visit - Application No. 2022/92406

Erection of 10 affordable dwellings, with access from Chapelgate and associated works, including resident play zone on land adjacent to 67 Chapelgate, Scholes, Holmfirth.

(Estimated time of arrival at site: 10:20 a.m.)

Contact: Nick Hirst, Planning Services

Ward(s) affected: Holme Valley South

9: Site Visit - Application No. 2022/93230

Deepen and extend Windy Ridge Quarry; increase the number of HGV movements permitted; excavate former landfill to recover recyclable materials (retrospective); temporarily store soils on part of the previously restored quarry area (retrospective); form new access; restore the site by infill with construction, demolition and excavation wastes; and recycle imported construction demolition and excavation wastes - Windy Ridge Quarry, Cartworth Moor Road, Cartworth Moor, Holmfirth

(Estimated time of arrival at site: 10:50 a.m.)

Contact: Farzana Tabasum, Planning Services

Ward(s) affected: Holme Valley South

10: Planning Application - Application No: 2021/94029

7 - 30

Demolition of existing structures and erection of a foodstore (class E) with associated access, parking, servicing areas and landscaping on the site of the former Spotted Cow Pub, New Hey Road, Oakes, Huddersfield.

Contact: Richard A Gilbert, Planning Services

Ward(s) affected: Lindley

11: Planning Application - Application No. 2022/93248

31 - 80

Demolition of existing Piazza shopping centre; part removal of Queensgate Market; demolition/retention of service tunnels; redevelopment of the site to form new public realm space (including public park and gardens, play areas, public square/outdoor event space); refurbishment and change of use of existing Queensgate Market Hall into food hall (Use Class E (b) sale of food and drink for consumption, mostly, on the premises); refurbishment and extension of existing library and art gallery building to form museum (Use Class F.1); change of use of part existing market hall building and extension to form public library (Use Class F.1); erection of indoor event venue incorporating multi-storey car park below (Sui-Generis); erection of public gallery building (Class F.1); associated infrastructure on land and buildings at Queensgate Market, Huddersfield Library and Art Gallery, and Piazza (and The Shambles) Shopping Centre (part Listed Building/part within a Conservation Area) Piazza Centre, Princess Alexandra Walk, Huddersfield.

Contact: David Wordsworth, Planning Services

Ward(s) affected: Newsome

12:	Planning Application - Application No. 2021/94208	81 - 110
	Outline application for re-development of former waste water treatment works, including demolition of existing structures to provide employment uses (Use Classes E(g)(ii); E(g)(iii); B2 and B8) at the former North Bierley Waste Water Treatment Works, Cliff Hollins Lane, Oakenshaw.	
	Contact: Nick Hirst, Planning Services	
	Ward(s) affected: Cleckheaton	
13:	Planning Application - Application No. 2022/92406	111 - 144
	Erection of 10 affordable dwellings, with access from Chapelgate and associated works, including resident play zone on land adjacent to 67 Chapelgate, Scholes, Holmfirth.	
	Contact: Nick Hirst, Planning Services	
	Ward(s) affected: Holme Valley South	
14:	Planning Application - Application No. 2022/93342	145 - 166
	Demolition of existing building and erection of engineering building with associated external works - David Brown Santasalo UK Ltd, Park Works, Park Road, Lockwood, Huddersfield.	
	Contact: Richard Riggs	
	Ward(s) affected: Crosland Moor and Netherton	
15:	Planning Application - Application No. 2022/93230	167 - 198
	Deepen and extend Windy Ridge Quarry; increase the number of HGV movements permitted; excavate former landfill to recover recyclable materials (retrospective); temporarily store soils on part of the previously restored quarry area (retrospective); form new access; restore the site by infill with construction, demolition and excavation wastes; and recycle imported construction demolition and excavation wastes - Windy Ridge Quarry, Cartworth Moor Road, Cartworth Moor, Holmfirth	
	Contact: Farzana Tabasum, Planning Services	
	Ward(s) affected: Holme Valley South	

16: Planning Application - Application No. 2022/93465

199 -
214

Variation of Condition 30 (minerals) on previous permission 2000/90671 for extension of Carr Hill Quarry including the extraction of sandstone and clay, associated activities and its restoration by means of infill with inert wastes -
Carr Hill Quarry, Barnsley Road, Upper Cumberworth, Huddersfield.

Contact: Farzana Tabasum, Planning Services

Ward(s) affected: Kirkburton and Denby Dale

Planning Update

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

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Contact Officer: Sheila Dykes

KIRKLEES COUNCIL

STRATEGIC PLANNING COMMITTEE

Thursday 26th January 2023

Present: Councillor Steve Hall (Chair)
Councillor Bill Armer
Councillor Paul Davies
Councillor Carole Pattison
Councillor Andrew Pinnock
Councillor Mohan Sokhal
Councillor Mark Thompson

1 Membership of the Committee

All members of the Committee were in attendance.

**2 Minutes of the Previous Meeting
Resolved –**

That the minutes of the meetings of the Committee held on 8th and 14th December 2022 be agreed as a correct record.

3 Declaration of Interests and Lobbying

Councillors Armer, Hall, Pattison, Pinnock and Thompson advised that they had been lobbied in respect of Application No. 2022/91730.

4 Admission of the Public

All items were considered in public session.

5 Public Question Time

A question was asked in respect of whether an investigation was ongoing to determine if the installation of roller shutters at a property on Nelson Street, Birstall had been approved by the Council, what the status of that investigation was and when an outcome might be forthcoming.

An answer was given by the Head of Planning and Development.

6 Deputations/Petitions

No deputations or petitions were received.

7 Planning Applications

8 Planning Application - Application No: 2022/91730

The Committee considered Application 2022/91730 relating to the demolition of a former dairy/snooker centre/storage and the erection of nine light industrial units on land adjacent to 60 Northgate, Cleckheaton.

Resolved –

That approval of the application and issue of the decision notice be delegated to the Head of Planning and Development in order to:

- (a) complete the list of conditions, including those contained within the report, as set out below:
1. Time limit (3 years).
 2. Development in accordance with the approved plans.
 3. Approval of samples of facing materials.
 4. Details of boundary treatments.
 5. Construction management plans for highway safety and residential amenity.
 6. Temporary drainage scheme for construction phase.
 7. Detailed drainage design and arrangements for the future maintenance and management of surface water infrastructure within the site.
 8. Submission of a noise report.
 9. Restriction on hours of operation to avoid night-time working.
 10. Details of external lighting to mitigate the impact on residential amenity.
 11. Updated intrusive site investigation report for land contamination.
 12. Site remediation and validation reports as necessary (informed by the updated intrusive site investigation report).
 13. Scheme for electric vehicle recharging points.
 14. Surfacing of the parking and turning areas within the site.
 15. Details of the proposed waste storage arrangements to mitigate potential fire risk.
 16. No building or other obstruction including landscape features shall be located over or within 3 metres either side of the centre line of the public. Furthermore, no construction works in the relevant area(s) of the site shall commence until measures to protect the public sewerage infrastructure that is laid within the site boundary have been implemented in full accordance with details that are to be submitted to and approved by the Local Planning Authority.
 17. Details of any highway retaining structures.
 18. Details of integrated bird boxes.
 19. Scheme for security measures to be incorporated into the development.
 20. Scheme of energy efficiency measures to be incorporated into the construction of the units to mitigate the impact on climate change.
 21. Separate foul and surface water drainage systems to be provided.
 22. No surface water pumping prior to the completion of surface water drainage works,
- and subject to the inclusion of a requirement for engagement with local residents within the Construction Management Plans (Condition 5).
- (b) secure a unilateral undertaking to cover the following matter:
Financial contribution to deliver offsite habitat improvements (£30,130).

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

For: Councillors Armer, Davies, Hall, Pattison, Sokhal and Thompson (6 votes)
Against: Councillor Pinnock (1 vote).

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: 02-Mar-2023

Subject: Planning Application 2021/94029 Demolition of existing structures and erection of a foodstore (class E) with associated access, parking, servicing areas and landscaping site of, Former Spotted Cow Pub, New Hey Road, Oakes, Huddersfield, HD3 4BU

APPLICANT
LIDL GB LTD

DATE VALID
20-OCT-2021

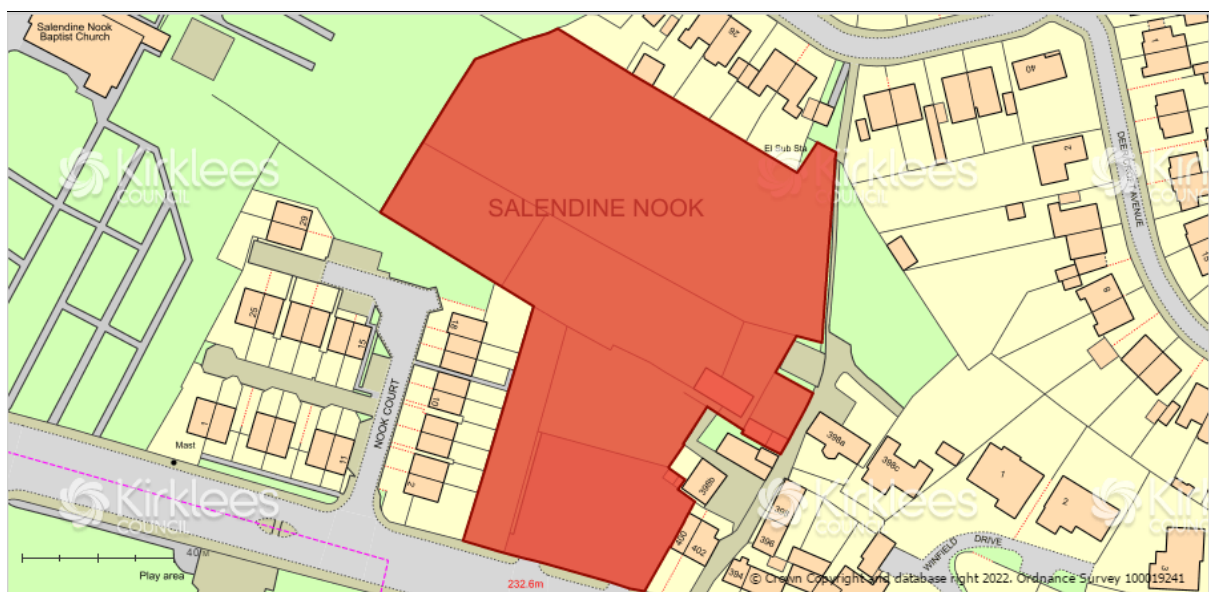
TARGET DATE
19-JAN-2022

EXTENSION EXPIRY DATE
31-JAN-2023

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 Councillors consulted:

Public or private: Public

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development subject to the conditions set out in the Officer Report and to secure a Section 106 agreement to cover the following matters:

- 1) Biodiversity – A financial contribution of £44,620 towards off-site measures to achieve biodiversity net gain in accordance with the Biodiversity Technical Advice Note;
- 2) Sustainable Travel Improvements – A financial contribution of £26,000 for the provision of 2no. bus stop shelters on New Hey Road (stops 22485 & 22498) as well as a further £10,000 towards Travel Plan Monitoring; and
- 3) Management – The establishment of a management company for the management and maintenance of infrastructure (including surface water and foul drainage infrastructure until formally adopted by the statutory undertaker).

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

1.0 INTRODUCTION:

- 1.1. This proposal is brought to the Strategic Committee because it represents a departure from the development plan as the site constitutes a part of HS38 which is a residential allocation. The proposed development is for non-residential development on the site and its boundary is in excess of 0.5 hectares. The proposal also exceeds the trigger for retail development that has a floor space greater than 1250 square metres.
- 1.2 A similar previous application (2019/91433) was refused at the Strategic Committee meeting on the 19th December 2019. The reasons for refusal centred on the loss of housing land contrary to the development plan, a significant adverse impact on the vitality of a local centre and the negative impact on the visual amenity of the character of the local area.

- 1.3 This revised application is supported by updated evidence which seeks to address the previous reasons for refusal, including a financial viability assessment and an updated retail impact assessment based on the change in circumstances since the submission of the previous application. The sales area of the proposed store has been reduced and its appearance has also been amended to a more traditional stone design, similar to Lidl's existing store in Holmfirth.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site comprises an area of land located on the northern side of New Hey Road, Salendine Nook. The front part of the site previously contained a public house (The Spotted Cow) and its curtilage. The pub has since been demolished. The rear part of the site is a largely grass/turfed area that slopes up steeply close to the northern boundary where it meets the rear gardens of some houses on Deercroft Crescent.
- 2.2 To the west of the site is residential development (2015/90452 & 2018/92160). Part of the western boundary is also flanked by the grounds of Salendine Nook Baptist Church. To the east of the site is a group of dwellings set around a narrow road off New Hey Road, these dwellings include two listed buildings.
- 2.3 The site is flanked by a significant number of mature trees, which are covered by a Tree Preservation Order, and there is a public footpath alongside the eastern boundary linking New Hey Road with Deer Croft Crescent.

3.0 PROPOSAL:

- 3.1 Full application for the erection of an E Class food store with associated parking, servicing areas and landscaping. The applicant is Lidl.
- 3.2 The proposed store is located towards the back of the site and has a gross internal floor area of 2,061 square metres and a retail sales area of 1,100 square metres.
- 3.3 A car park with 113 spaces is proposed in the front part of the site and to the north eastern corner including 7 disabled bays, 8 parent and child bays and 2 electric charging point bays. Deliveries are to be made on the south western elevation of the building with external plant located on the western corner.
- 3.4 Soft landscaping is proposed to the perimeter of the site and much of the area around the store would be enclosed by a retaining wall and will require diversion of a culvert within the site boundary.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 The following applications relate to the application site:

2020/93308 – Erection of foodstore (Use Class E) with associated parking, servicing areas and landscaping – Withdrawn before decision issued.

2019/91433 – Erection of an A1 Foodstore with associated parking, servicing areas and landscaping – Refused at Strategic Planning Committee (19th December 2019) – Decision Issued 12th February 2020.

2017/93846 - Demolition of existing public house and erection of 32 residential dwellings - Resolution to approve at Sub-Committee on 22nd February 2018 subject to a Section 106 Agreement – Application withdrawn before decision issued

2017/90602 - Erection of 26 no dwellings - Resolution to approve at Sub-Committee on 31st August 2017 subject to a Section 106 Agreement – Application withdrawn before decision issued

- 4.2 The following applications on adjacent land, within the same housing allocation to the east are relevant:

2015/90452 - Outline application for erection of 22 dwellings and garages, and formation of associated car parking, access and landscaping. Allowed at appeal 3rd May 2016

2018/92160 - Reserved matters application pursuant to outline permission 2015/90452 (Appeal No: APP/Z4718/W/15/3140324) for erection of residential development – Approved

There have also been numerous discharge of condition applications relating to the above. The site has since been developed and is occupied by residents.

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

- 5.1 The assessment of the application has been subject to the following amendments:

- Various amendments to the housing layout supporting the applicant's viability position. The original layout and the penultimate layout over-utilised cut and fill to increase the abnormal costs of the housing scheme through the increased cost of removing excavated material and reliance on excessively large retaining walls. This was overcome through maximising highway gradients as advised within the Highway Design Guide SPD. The number of units in the housing development layout was also increased from 29 to 31 to meet the allocation yield.
- Removal of transom bar from store glazing to add verticality.
- Clarification of front boundary treatment appearance.
- Detailed hard and soft landscaping submission and confirmation that invasive species have been removed from the proposal.

- 5.2 It should be noted that the majority of the scheme's design, inclusive of internal parking layout, access and drainage, were arrived at under a previous submission.

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
LP2 – Place Shaping
LP3 – Location of new development
LP4 – Providing Infrastructure
LP7 – Efficient and effective use of land and buildings
LP11 – Housing Mix and Affordable Housing
LP13 – Town centre uses
LP19 – Strategic transport infrastructure
LP20 – Sustainable travel
LP21– Highway safety and access
LP23 – Core Walking and Cycling Network
LP22 – Parking
LP24 – Design
LP27 – Flood risk
LP28 – Drainage
LP30 – Biodiversity and geodiversity
LP33 – Trees
LP35 – Heritage
LP51 – Protection and improvement of local air quality
LP52 – Protection and improvement of environmental quality

6.3 National Planning Guidance:

NPPF Section 2 - Achieving sustainable development
NPPF Section 4 – Decision Making
NPPF Section 5 – Delivering a sufficient supply of homes
NPPF Section 7 – Ensuring the viability of town centres
NPPF Section 12 – Achieving well-designed places
NPPF Section 14 – Meeting the Challenge of Climate Change, Flooding and Coastal Change
NPPF Section 15 – Conserving and enhancing the natural environment
NPPF Section 16 – Conserving and enhancing the historic environment

6.4 Adopted Guidance

Biodiversity Net Gain – Technical Advice Note
Highway Design Guide SPD
Viability Guidance Note

7.0 **PUBLIC/LOCAL RESPONSE:**

- 7.1 The application has been publicised in accordance with the Development Management Procedure Order 2015 (as amended) by way of neighbour letters to adjoining properties, a site notice and through a press advert in the Huddersfield Examiner.

- 7.2 388 representations have been received from local residents and interested parties, of which 367 representations were in support of the application, 21 were in objection.

The comments raised by those in support of the application are summarised as follows:

- Development will introduce competition to the nearby Aldi which is good for consumers
- More choice for consumers
- Cheaper prices provided by this type of retailer
- Proposal will provide jobs
- Accessible and convenient location
- Proposal is preferable to houses; more housing would result in more pressure on local infrastructure and services
- Permanent job creation
- The Spotted Cow was an eyesore; development will improve the area
- Proposal would mean less congestion around the Sainsbury's store
- Would benefit the local community and the school
- Lidl will be providing toilets which will be beneficial for the local area.
- The proposed store would promote competition into the local area between retailers.

The issues raised by those objecting to the proposal are summarised as follows:

- Development would have a significant adverse impact on the vitality and viability of Salendine Nook Local Centre
- The area is already served by similar stores, notably the Aldi being built on New Hey Road. Potential for an existing store to fail incurring a derelict site.
- Site is not edge of centre for retail purposes and does not meet the sequential test for sites, with more suitable sites available in the town centre. The sequential assessment is flawed.
- Concerns raised with the applicant's retail assessment
- The application is a departure from the Local Plan and conflicts with the allocation of the site for housing development and the site is considered to be viable for housing by representors.
- Detrimental impact on local businesses including the Salendine Nook Shopping Centre.
- Concerns raised with extra traffic that would be generated, especially with the site being close to the high school, nursery, church and homes.
- Design does not complement the area
- Highway safety impacts, including as a result of the proposed access and increases in traffic generation that could impact pedestrians, notably school children.
- Potential noise nuisance/disturbance from HGV deliveries and intensification of site use, particularly at unsociable hours for local residents.
- Neighbouring properties overlooked by shoppers/loss of privacy
- More pollution from cars

- 7.3 In addition to the Council's publicity of the application, a community engagement exercise was undertaken by a third party on behalf of the applicant. This involved the distribution of 8,000 freepost response forms in a questionnaire format to an identified catchment area for the proposed store. Separate neighbour letters were issued to residents immediately adjacent and Local Ward Councillors were contacted and a meeting was held with some of the Ward Members. A press release was also issued in the Huddersfield Examiner on the 1st September 2021. A dedicated website for the development was provided which included an online feedback form. A summary report and evidence of the responses to the Community Engagement exercise has been provided to the Council, dated October 2021. In summary, of the 461 responses received, 92% of respondents support a new Lidl store on New Hey Road, 7% disagree and 1% were not sure.
- 7.5 No formal responses from Ward Councillors were received, though multiple discussions between Ward Councillors and the Case Officer have occurred throughout the assessment period of the application.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

KC Highways Development Management – No objection subject to conditions and travel plan monitoring contribution

KC Lead Local Flood Authority – No objection subject to conditions

8.2 Non-statutory:

KC Conservation – No objections in terms of the impact on the setting of the nearby listed buildings. However concerns were raised in respect of the development's visual impact through the introduction of a large food store with parking and signage in this location, which has a predominantly residential character.

KC Crime Prevention – Advice provided in respect of boundary treatments

KC Design – Objection – Based upon the development's adverse impact upon the character of the area.

WYP Counter Terror – Advice provided and issued to applicant.

KC Environmental Health – No objection subject to conditions

KC Planning Policy – No response

KC Landscape – No response

KC Trees – No objection subject to compliance with submitted Arboricultural Method Statement

KC Ecology Unit – No objection subject to conditions and a No Net Loss to Biodiversity financial contribution of £44,620 to be captured via a Section 106 agreement.

KC Waste Strategy – No objections following further information submitted.

Yorkshire Water – No objection subject to a condition

9.0 MAIN ISSUES

- Principle of development including viability and retail assessment
- Urban design issues
- Residential amenity
- Highway issues
- Drainage issues
- Ecology & Trees
- Contaminated Land
- Planning obligations
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

Land allocation

- 10.1 The application site comprises housing allocation HS38 in the Local Plan and has an indicative capacity of 32 dwellings.
- 10.2 The context to the land's allocation is that it was included as a housing allocation through the Local Plan process, being added as a modification by the Planning Inspector. The allocation has been partially developed through an outline application upheld at appeal and a reserved matters application subsequently approved (2015/90452 & 2018/92160 respectively) which comprise 23 units.
- 10.3 The housing allocation forms part of the five year housing land supply in the adopted Local Plan.
- 10.4 The proposal is for an E class food store and the development would therefore conflict with the land's allocation in the Local Plan.
- 10.5 The NPPF establishes a principle in favour of sustainable development although paragraph 12 of the NPPF states that *"the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan...permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed."*
- 10.6 The Local Plan was adopted in February 2019 and is therefore considered to be up-to-date.

- 10.7 Section 5 of the NPPF relates to the delivery of a sufficient supply of homes. Paragraph 59 of NPPF states *“it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed”*. Paragraph 65 of the NPPF goes on to state that *“strategic policy-making authorities should establish a housing requirement figure for their whole area”*.
- 10.8 The Kirklees Local Plan Strategy and Policies document sets out the housing requirement at 31,140 in the Spatial Development Strategy. Table 7 in the plan sets out the housing capacity in the Local Plan and as noted in paragraph 8.16 there is a slight shortfall in overall housing supply.
- 10.9 Paragraph 68 of the NPPF requires planning authorities to identify a sufficient supply and mix of sites, taking into account their availability, suitability and economic viability – including specific deliverable sites for years one to five of the plan period and specific, developable sites for the remainder.

Financial Viability of the Site's Allocation as Housing Land

- 10.10 The development of a food store within HS38 would represent a departure from the development plan. Given that the performance of Kirklees Council in respect of the Housing Delivery Test is 8% below the 95% threshold by which an Action Plan is required for housing delivery and only 2% above the need to provide a 20% land buffer in respect of its 5 Year Housing Land Supply, the loss of housing land for uses ulterior to its intended purpose could also incur a situation whereby Kirklees is subject to the need for ‘presumption in favour of sustainable development’ decisions on land within the borough irrespective of its designation. In layman’s terms a presumption in favour of sustainable development enables the possibility of allowing non-housing development on land that was originally intended to be developed for a residential use, and vice versa. Should the Council choose not to defend its housing land allocations from departures, as is the case in this instance, then the Local Planning Authority become increasingly at risk of being subject to the ‘presumption in favour of sustainable development’ scenario. Members must bear this in mind when forming their decision on the application.
- 10.11 Officers are of the opinion that all housing allocations are needed in order for the Council to meet its obligation to deliver the housing required over the plan period. However, Officers also acknowledge that there are a number of benefits to the development in terms of achieving sustainable development. These include economic benefits through job creation - with the applicant indicating that 40 jobs would be created (15 full-time and 25 part-time) – as well as through business rates. There would also be social and environmental benefits by expanding the retail offer in this location and enabling local people to meet their day-to-day shopping needs amidst the current cost of living crisis. The scheme’s benefits are considered to have significant weight in planning decision terms and are offset against the similarly essential need to deliver the Council’s housing targets, which is predicated on the delivery of allocated housing sites such as HS38.

- 10.12 Given the planning balance in respect of the benefits and shortfalls of the proposed development for a discount food store, Officers progressed in agreement with the applicant to undertake an independent financial viability appraisal for housing development of the allocated site with the resultant output of the assessment determining the principle of a policy departure (subject to other material considerations, such as sequential/retail impact/transport capacity & safety etc). Members should recall that paragraph 58 of the National Planning Policy Framework cites that the weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case.
- 10.13 The PPG clarifies that to define land value for any viability assessment, a benchmark land value (BLV) should be established on the basis of the existing use value (EUV) of the land, plus a premium for the landowner. This uplift is often referred to as 'existing use value plus' (EUV+). The applicant's viability assessor and the independent assessor have used the residual appraisal methodology, as is established practice for viability assessments. In simple terms the residual appraisal formula is as follows:

Gross Development Value less Total Development Cost (inclusive of S106 obligations, abnormal development costs and finance) less/minus Profit, equals the Residual Land Value.

- 10.14 The Residual Land Value is then compared to the Benchmark Land Value (BLV) as defined in the Planning Policy Guidance on Viability. Where the Residual Land Value produced from an appraisal of a policy compliant scheme is in excess of the Benchmark Land Value the scheme is financially viable, and vice versa:

Residual Land Value > Benchmark Land Value = Viable

Residual Land Value < Benchmark Land Value = Not Viable

- 10.15 Planning Practice Guidance indicates that a profit level of 15-20% of gross development value is generally considered to be a suitable return to developers. There are a number of factors that determine what a reasonable level of profit might be, including the availability of development finance, the state of the market and the consequent risk in proceeding with schemes, as well as development values and demand. In determining the appropriate level for an individual development, regard is had to the individual characteristics of that scheme.
- 10.16 As part of the planning considerations in connection with this application, LPA Officers have requested that the applicant justify its contention that residential development of the site is not economically viable. Following significant negotiations on the site layout, its yield and the nature of topographical cut and fill on the site (which influenced abnormal costs through the need for site grading and retaining structures), a final residential layout was agreed between the applicant and the LPA in October 2022. The agreed layout was considered realistic for a housing developer to bring forward and formed the basis for the independent assessment conducted by CP Viability (the independent assessor). All negotiations preceding this had involved disputes over the layout of the residential layout, the maximisation of highway gradients serving the scheme and the resultant impact this had on the abnormal costs identified by the applicant.

- 10.17 The approved layout includes 31 (3/4 bed) detached and semi-detached dwellings. The applicant's viability assessor (JLL) have submitted their "Appraisal Summary" updated to 17/10/2022 in support of the applicant's contention that a residential development of the subject site is not viable. The appraisal returns a negative residual land value of - (minus) £1,642,184 - which is £1,917,184 below their stated BLV (£275,000 for the purchase of the site) and therefore significantly unviable for development of the site for housing.
- 10.18 The applicant's stated BLV has been accepted by the independent assessor. However, in respect of various build costs, the independent assessor has not agreed with the applicant's BCIS build costs of £121.05 sq ft and has stated that a cost of £113.05 sq ft is more in line with the BCIS rates median rate in the HD3 post code.
- 10.19 Further to the build cost rates, the applicant submitted abnormal costs totalling £4,030,000. Given the scale and proportion of this figure in respect of the overall/cumulative build costs, the independent assessor engaged a third-party independent quantity surveyor to review the submitted abnormal costs adopted by the applicant's assessor in their report (i.e. the 31 unit scheme). The applicant's anticipated abnormal costs and the independent Quantity Surveyor's reviewed abnormal cost findings are set out in the table below.

Abnormal Costs	Applicant's Figure	IQS Revised Figure	Difference
Site Preparation	£330,000	£330,000	-
Hard Standings	£310,000	£181,750	-£128,250
Kerbs & Edgings	£40,000	£23,000	-£17,000
Boundary Treatments & Retaining Structures	£1,630,000	£724,591	-£905,409
External Lighting	£65,000	£43,700	-£21,300
Drainage, Incl Culvert Diversion	£550,000	£416,300	-£133,700
External Services inc BWIC	£160,000	£160,000	-
Landscaping	£115,000	-	-£115,000
S278 Works	£45,000	£45,000	-
Prelims (On Abnormals)	£385,000	£230,921	-£154,079
Totals	£3,630,000	£2,155,262	-£1,474,738

- 10.20 The independent Quantity Surveyor finds significant savings in the abnormal costs totalling £1,474,738 (rounded). This results in the overall abnormal costs, following the independent assessment, being estimated at £2,155,262 excluding a 12.5% external works rate applied by the assessor which totals an additional £531,184 to the IQS abnormalities alongside a 3% contingency figure. (Refer to the Independent Appraisal available on the website for full details).
- 10.21 In respect of development profit, the applicant has put forward an anticipated profit of 20% of development revenue. The independent assessor states that, in their experience, profits at the upper end of the range (i.e. 20%) are typically required for multi phased developments where there is significant upfront infrastructure works which will not be fully repaid for a number of years. This is because there is an increased perceived risk of the development being able to

be delivered in full which, in turn, increases the level of profit required. For smaller schemes, like the subject property, where the development programmes are shorter, the independent assessor regularly sees profits at 17.5% on revenue (or lower) for market value housing. This is because the perceived risk associated with the development is considered to be reduced when compared against a multi-phased development. The Planning Practice Guidance identifies that 15% is the lowest profit threshold that can be accepted to enable a scheme to be found financially viable.

10.22 The table below sets out the main points of divergence in the applicant's viability submission and the independently reviewed position:

Input	Applicant Viability Position	Independently Assessed Position
Revenue	£9,304,803	£9,582,729
Contingency	£536,494	£143,420
Abnormals	£4,030,000	£2,155,262
Developer Profit	20%	17.5%

10.23 When the viability of the proposed residential scheme is reviewed using the independently assessed position, the independent assessor concludes the following:

On the basis of a 100% market value scheme, with no planning policy contributions and the reduced abnormal costs of £2,155,262, the revised scheme of 31 dwellings generates a developer profit equivalent to 14.28% on revenue. This is below the target profit of 17.5% on revenue and is therefore deemed to be unviable. In summary, we concur with the applicant that it is reasonable to conclude that a residential development of the subject site is not viable.

10.24 Given that the scheme, in meeting the Benchmark Land Value of £275,000, is not able to generate a profit above 15% of Gross Development Value before planning policy contributions are added, the allocated housing site is not considered viable for housing development. Indeed as house price values will likely fall with inflation adding to building costs, the profitability of the site for housing development is likely to decrease further in the short to medium term thereby undermining the likelihood of the site being able to contribute to Kirklees' housing delivery targets. The Local Planning Authority would prefer the site to come forward for housing, however realistically the site poses significant financial challenges for a developer and therefore LPA Officers concede that alternative uses should be considered.

10.25 As per Paragraph 58 of the National Planning Policy Framework, the weight to be attributed to a viability assessment is for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. As the purpose of the independent assessment was to challenge the assumptions within the applicant's viability submission, and LPA Officers were rigorous in their scrutiny of the submitted housing development layout and the delays incurred to processing the application are reflective of this rigorous approach, it is considered reasonable for the Local Planning Authority to justify a departure on the basis that the site is not able to viably deliver the intended residential allocation of the development plan.

- 10.26 Members should be aware that a third party viability appraisal of the site has been submitted on behalf of a representor. The submitted third-party appraisal claims that the site is viable for housing with a site yield of 54 units and various other alterations to build costs, most notably a reduction in abnormal costs to £1,611,691. Having reviewed the proposed residential layout accompanying the third party appraisal, LPA Officers can advise Committee Members that it is not a credible assessment. This is because, in delivering 54 units, the proposal constitutes over-development that would incur unacceptable visual and residential amenity issues for the local area and its residents. For instance the front of the site would be subject to an arrangement of 3 and 4 storey apartment blocks separated less than 21m from the rear of properties on Nook Court which would significantly interfere with the privacy of residential gardens and rear windows. The need for apartment blocks is predicated on the need to generate revenue to enable the site to be financially viable and would be highly unlikely to be supported given that their height would be significantly at odds with the surrounding built character of two-storey houses and dormer bungalows. It is acknowledged that the proposed Lidl development was refused on visual amenity character reasons under a previous decision, however the impact of the apartment blocks is considered, by several orders of magnitude, more intrusive than a single storey food store situated at the rear of the site.
- 10.27 Indeed, the independent viability assessment is based upon a more sympathetic residential development which meets the site allocation yield while integrating more effectively with the surrounding area by minimising residential amenity and character issues. To conclude, the third-party appraisal is afforded little to no weight in the recommended decision.

Retail Assessment

- 10.28 Policy LP13 – Town Centres states that proposals which come forward for main town centre uses, which are located outside of the defined centre boundaries, will require the submission of a Sequential Test. The sequential test guides main town centre uses towards town centre locations first, then, if no town centre locations are available, to edge of centre locations, and, if neither town centre locations nor edge of centre locations are available, to out of centre locations (with preference for accessible sites which are well connected to the town centre). It supports the viability and vitality of town centres by placing existing town centres foremost in both plan-making and decision-taking.
- 10.29 Policy LP13 also requires a Retail Impact Assessment for planning applications which include retail development that is not located within a defined centre and where the development creates a floorspace greater than 500 sq.m gross. The proposal under this application has been subject to both a Sequential and Retail Impact test. The applicant's submissions for these tests have been reviewed by an independent consultant on behalf of the LPA.
- 10.30 In respect of the Sequential Test, the independent assessor has reviewed all of the sites and locations considered by the applicant in their submission and do not believe that any of them are both available and suitable to accommodate the proposed development. Whilst the assessor notes that other sites are being marketed in the area, it is not determined that any occupy a sequentially preferable position, and are available and suitable for the proposed development (even allowing for appropriate flexibility in terms of format and scale). It is therefore concluded that the application proposal conforms to the requirements of the sequential test as articulated by paragraphs 87 and 88 of the National Planning Policy Framework.

- 10.31 There are two centres near to the development site. The first is Salendine Nook Local Centre which is 280m west of the development site at the junction between Moor Hill Road and New Hey Road. The second is Marsh District Centre which is 2km east of the development site and also positioned on the same highway of New Hey Road/Westbourne Road. The main anchor store at Salendine Nook is a Sainsbury's convenience store whereas a larger Co-Op store anchors Marsh District Centre
- 10.32 The independent consultant's report on the applicant's retail impact assessment provided the following conclusions:
- the Sainsbury's at Salendine Nook local centre (and the centre as a whole) would continue to trade strongly subsequent to the implementation of the proposal and relevant commitments;
 - the post-impact performance of the Co-op at Marsh district centre is of greater concern, but the level of trade diversion attributable to the application proposal is limited and there have been no submissions from the operator to suggest that its ongoing viability is in peril, despite being notified for a response;
 - the wider offer at Marsh district centre would continue to perform 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.
 - the recommendation of conditions to ensure the store trades in a manner suggested in practice, notably restrictions to the gross and net floorspace, the split between convenience and comparison goods sales as well as a restriction to prevent subdivision.
- 10.33 Overall the independent assessor has concluded that the trade diversion impacts that would occur at defined centres, as a result of the development coming forward, are of an acceptable magnitude and that no centre would be the subject of a significant adverse impact or subject to a material erosion of their role or function. Furthermore, the application proposal would result in some benefit in respect of improved customer choice in the local area. Nevertheless the assessor does caveat that the most significant qualitative benefit in respect of customer choice will arise from the delivery of the approved Aldi store at Oakes Mill which is located broadly equidistant between Marsh District Centre and Salendine Nook Local Centre.

Conclusion on the principle of development

- 10.34 With regard to Retail Impacts, and contrary to the findings of the previous application 2019/91433, the development of a further food store on New Hey Road would not incur significantly adverse impacts on either Salendine Nook Local Centre nor Marsh District Centre.
- 10.35 Likewise, despite the proposal conflicting with the land's residential allocation thereby resulting in a departure from the Local Plan, an independent viability review has confirmed that the site is not viable for the delivery of housing.
- 10.36 By consequence, the principle of the development is recommended as acceptable by LPA Officers.

Urban Design and Heritage issues

Urban Design Review

- 10.37 The site lies within a predominantly residential area. There is new residential development to the west at 'Nook Court' on land that was allocated for housing (allocation HS33). To the east of the site are a cluster of historic dwellings with more modern houses slightly further along New Hey Road. Deer Croft Crescent lies immediately to the north, set at a higher topographical level from the application site. To the south is a 20th Century residential development on Dunsmore Drive.
- 10.38 The proposal would introduce a food store at the rear of the site with a parking area to the site frontage with New Hey Road and associated signage. A previous iteration of the scheme relied upon advertising hoardings and reclaimed stone. The applicant has submitted this iteration of the food store proposal to include a predominance of natural stone in its south western and south eastern elevations. In isolation, the material quality of the building is viewed positively on account of the high quality facing materials to be used in its construction alongside the vertically oriented glazing panels devoid of glazing bars.
- 10.39 The car park is formed by three banks of bays between 12 and 14 spaces in size separated by a central footpath with 20 bays on the western boundary and 33 bays across the eastern boundary. The parking allocation is inclusive of 2 rapid electric vehicle charging points, 8 parent and child and 8 disabled spaces.
- 10.40 Breaks in the residential make-up of the area are provided by the cemetery to the west, the recreation ground to the south west and Huddersfield New College to the south east. In this sense, the openness of the car park would be reflective of the historic layout of the area in that it would remain free from structures other than typical street furniture, such as lamp posts.
- 10.41 The KC DM Masterplanner (Design Specialist) states that the store's large block footprint would be at odds with the finer grain and scale and the strong residential character of the area, where a mix of detached and semi-detached modern buildings and clusters of historic farm/textile industry buildings are found. Whilst pushing the building towards the back of the site would assist in taking away some of the development's harmful impact on the street scene, this means that the front of the site would be dominated by a large expanse of hardstanding which – despite the proposed landscaping – would lack interest, would be vehicle-dominated, and would be out of character with the area.
- 10.42 It should also be noted that the previous refusal of permission for a food store on the site under 2019/91433 included a reason for refusal broadly akin to the character issues identified by KC's Design Specialist. Nevertheless, despite the form of the development incurring character issues, the composition of the food store in respect of its design is considered to be of a high quality finish that is an improvement on the previous public house that occupied the site. Indeed it should also be considered that the appearance, scale and layout of the proposal seek to optimise an awkwardly shaped and constrained site to its most efficient extent for the purpose of a retail land use. Given that the sites intended land use is proven to not be viable (i.e. a housing development), LPA Officers

must accede that alternative land uses for this brownfield site must be considered. In this context, the impact on the character of the area is not determined to be of sufficient weight to incur a reason for refusal in this instance – and is further outweighed by the public benefits of the scheme in respect of providing consumer choice to the local area in a sustainable location.

Heritage Review

- 10.43 In respect of heritage matters, set to the west of the site is the Grade II listed Salendine Nook Baptist Church set within extensive grounds and dating to 1843, its curtilage extends as far as the north-west boundary of the proposal site. The east boundary of the burial ground is formed by a low drystone wall with mature deciduous trees. To the east of the site facing New Hey Road is a small group of stone dwellings which historically formed the small hamlet of Nook which was within a rural setting that has subsequently been enveloped by the expansion of Huddersfield's urban area. The hamlet, along with the Baptist chapel to the west, is evident on the OS map of 1854. The layout of the hamlet has changed somewhat, with buildings demolished and some new houses built around the turn of the 20th century. The previous public house was attached to 400 New Hey Road and this was demolished in the early 20th century, with the more recent building understood to have been constructed in the late 1930's. Within this settlement are two Grade II listed cottages: 390 and 398 New Hey Road.
- 10.44 KC Conservation state that, although a substantial structure is proposed with extensive landscaping and excavation, the proposal has a low impact on the nearby heritage assets due to the previous changes in the area and its distance from the heritage assets. KC Conservation highlight that a residential development would be a more sensitive use for the site as the scale, mass and function would reflect the surrounding uses and would likely follow the topography of the site however, from a heritage perspective, the level of harm in this proposal is low and the public benefits outweigh this harm.

Conclusion

- 10.45 Overall, despite the potential harm to the character of the local area and in lieu of a housing development being viable on the site, the proposed food store is designed to optimise its scale, layout and appearance to minimise its impact on visual amenity whilst attempting to integrate sympathetic and high quality materials to ensure that, where it can, it reflects local vernacular.
- 10.46 Given that the proposal also incurs little harm to nearby designated heritage assets, the development of a food store on the site is found to be in accordance with policies LP24 and LP35 of the Kirklees Local Plan, relevant chapters of the National Planning Policy Framework and the National Design Guide.

Residential Amenity

- 10.47 The application has been assessed by Environmental Health who raise no objections. This includes in relation to the proposed operating hours, external lighting, noise, odour, air quality, contaminated land and the construction period. Environmental Health have recommended that, should the application be approved, conditions requiring the implementation of noise attenuation (i.e. acoustic fencing to boundaries), restricted delivery times and external plant specification details be submitted and approved by the Local Planning Authority.

- 10.48 In respect of, overshadowing, overbearance and privacy loss, the development is sited in the most optimal location to prevent such impacts occurring. The food store will be set significantly lower than the properties on Deer Croft Rise as well as those on Nook Court and LPA Officers are satisfied that this minimises the risk of overshadowing and overbearance to properties on these residential streets. In respect of privacy loss, the potential for customers parking at the site to view private residential curtilages or their habitable room windows is largely minimised (for residents of Nook Court and New Hey Road 398b, 400 & 402) through the retention of boundary treatments for the latter and the introduction of a 1800mm high acoustic close-boarded fence across the eastern boundary.
- 10.49 Overall the development is found to be in accordance with LP24 in respect of residential amenity.

Highway issues

- 10.50 As of the adoption of the Local Plan, Kirklees Council no longer has car parking standards. Policy LP22 sets out the criteria for establishing parking requirements for new developments, which should be evidence based within the planning application submission. It is considered the level of parking provided with this application is sufficient to accommodate a store of this size.
- 10.51 Overall the proposed quantum of car parking (113 spaces) would be considered acceptable, with sustainable travel measures provided on site in the form of cycle stands alongside good public transport links on New Hey Road and accessibility provided throughout the site for pedestrians. It is considered that the applicant's commitment to a Travel Plan, which would promote sustainable travel modes for the operator's staff, is also of significant benefit as it would reduce the site's reliance on car trips while having associated benefits in respect of health and air quality. The applicant has consequently agreed to provide £10,000 in travel plan monitoring to be secured through a S106 agreement attached to this planning permission, pending a Committee resolution.
- 10.52 A Transport Assessment and framework Travel Plan have been prepared and submitted by Bryan G Hall consulting engineers dated September 2021. The trip generation has been assessed using the TRICS data base. The submitted Transport Assessment assesses the traffic impact of 'retail-discount food stores' in trip generation terms. The assessment indicates that the peak periods would result in the following traffic generation:

Peak hour Friday generating 200 two way vehicle movements.
Peak hour Saturday generating 294 two way vehicle movements.

It should be noted that base traffic flows along New Hey Road were obtained from pre-covid 2018 data and a 'tempo' growth factor applied to give a robust and representative estimation of the traffic flows in both 2022 and 2026.

- 10.53 Highways Development Management consider that the traffic generated by the development can be accommodated on the local highway network without resulting in any significant adverse highway safety impacts.

- 10.54 The site access is to incorporate a right turn lane and existing traffic island relocated to accommodate the proposal. A stage 1 road safety audit and designers' response has been completed with the audit's identified amendments being included in the proposed site and highway works layouts. These off-site measures are to be secured through a Grampian condition and, due to New Hey Road being adopted highway land, it is considered that the off-site highway works have a realistic prospect of being delivered.
- 10.55 The site is located well within the recommended 400m walking distance from the nearest bus routes that operate on New Hey Road. Bus services which serve New Hey Road include the 371 which operates between Kirkheaton and Lindley at a 20 minute frequency, along with the 537 which operates between Huddersfield and Halifax at a 60 minute frequency. The bus availability for the site is therefore considered to be acceptable. The size of the development is unlikely to change the bus route or its frequency.
- 10.56 The closest bus stops on this corridor are 22485 and 22498. Both stops do not benefit from a shelter. As part of this scheme, a bus shelter would be provided at the above named stops at a cost of £13,000 each in order to improve the public transport offer. The Section 106 terms have been agreed in principle with the applicant to allow for this identified upgrade.
- 10.57 Overall the proposal is considered acceptable from a highway perspective in respect of policies LP20 and LP21 subject to the inclusion of conditions relating to the surfacing of the car park, provision of acceptable sightlines, closure of the existing access, approval of a scheme for the provision of a right turn lane from New Hey Road (the Grampian condition) and approval of details of any highway retaining structures.

Drainage issues

- 10.58 In respect of surface water drainage of the site, the use of site infiltration and other similar SUDS systems have been discounted as they are not suitable due to ground conditions. The northern part (8870m²) of the existing site is currently a field used which housed a stable and has no site surface water drainage. The southern part (1330m²) of the site is a former public house and associated hardstanding, which has an existing surface water drainage system that discharges into a combined sewer near the southern boundary of the site. The proposed surface water drainage for the site will comprise a piped surface water drainage system connected into the combined sewer manhole near the southern boundary of the site.
- 10.59 The FRA sets out that the site area is 10,200m² and will comprise a total impermeable area of 6740m². Based on a greenfield runoff rate of 5.0 litre/sec/hectare the proposed runoff rate for the site is 5.1 litre/sec. Based on 1 in 100 year rainfall and 30% allowance for climate change a 425m³ attenuation (storage) tank will be provided on-site. The Detailed Drainage Design drawing 09-122-503 indicates the proposed layout.
- 10.60 There is a high risk of overland surface water flows from adjacent properties, flowing across the site from the western boundary with the Salendine Nook Baptist Church to the southern boundary with New Hey Road. The proposed redevelopment will not interfere with the route of any overland flows, other than ensuring they do not enter the Lidl store. Overland Flows Plan drawing 09-122-501 indicates the proposed route of overland flows across the site.

- 10.61 In respect of foul drainage, there is an existing foul drainage system on the site that served the public house. This system will be removed and replaced and will be connected to the existing combined sewer manhole near the southern boundary of the site.
- 10.62 The Lead Local Flood Authority have confirmed that they are able to support The Beam Consulting Flood Risk Assessment, inclusive of the culvert diversion within the confines of the site, and consequently the proposed development is able to meet the requirements of LP27 – Flood Risk and LP28 – Drainage.

Ecology & Trees

- 10.63 In respect of the proposal's biodiversity and ecological impacts, an updated ecological assessment has been submitted with the application (relative to previous application submissions) which KC Ecology Officers have accepted. The report details that the site is of minimal ecological value and provides negligible opportunities for roosting bats. The report lays out a number of mitigation and enhancement measures that should be secured through appropriate planning conditions, which are: an ecological design strategy to implement the delivery of the lost habitat units resulting from the development, a lighting design strategy for biodiversity, restrictions on site clearance for the protection of nesting birds and eradication of invasive non-native species (Rhodedendron in this instance.)
- 10.64 A Biodiversity Net Gain calculation has been submitted with the application through use of the DEFRA Metric v3.0. The metric details that there will be a 47.47% net loss in habitats (-1.60 units) on site, and no net change in hedgerows. KC Ecology accept that all options have been exhausted to provide a biodiversity net gain within the development site and it is assumed that the applicant is to provide a financial contribution to offset the loss of biodiversity. In order to ensure that a 10% biodiversity net gain is achieved as part of the proposals, 1.94 habitat units will need to be delivered via a financial contribution. The financial contribution required (based on £20,000 per habitat unit (figure taken from 2019 DEFRA Impact Assessment) + 15% admin fee (figure taken from Kirklees Biodiversity Net Gain Technical Advice Note)) to be secured through a section 106 agreement will be £44,620. This figure would need to be secured through a S106 agreement.
- 10.65 In respect of the development's impact on trees within the site, the applicant has submitted an Arboricultural Method Statement which has been accepted by the KC Trees Officer.
- 10.66 Overall the development is found to be in compliance with Local Plan Policies LP30 – Biodiversity and Geodiversity and LP33 – Trees.

Contaminated Land

- 10.67 In support of the application, the following contaminated land documents have been submitted:
1. Phase 1 Report by Beam Consulting, dated 29th September 2021 (ref: 09-122-DOC-002A)
 2. Geoenvironmental Appraisal Report by Lithos, dated December 2017 (ref: 2895/1)

3. Phase 2 report by Dunelm Geotechnical & Environmental, dated 28th September 2018 (ref: M600)

- 10.68 The reports included geotechnical information, which is outside the remit of Environmental Health, the consultation response therefore only related to the land contamination aspects of the reports
- 10.69 The Phase 1 Report by Beam Consulting (Ref: 09-122-DOC-002A) summarises the information provided in the appended Lithos Geoenvironmental Appraisal Report. The desk study identified potential sources of pollution coming from the site's historical and current uses. In the Geoenvironmental Appraisal Report (ref: 2895/1) it is detailed that the field investigation found no significant levels of contamination on the site. However, in both reports it was recommended that post-demolition investigation works would be necessary. The Phase 2 report by Dunelm Geotechnical & Environmental (ref: M600) dug another two trial pits and four boreholes to further confirming the ground conditions at the site.
- 10.70 The work to date has confirmed no contamination at the site and the KC Contaminated Land Officer accepts all three contaminated land reports provided. The site is for a commercial end-use and is going to be covered with hardstanding (car park) and therefore KC Environmental Health consider there to be minimal risk to end-users. However, as groundworks are proposed, a condition relating to unexpected contamination that may be encountered during the construction activities would be added to the decision notice, should the application be approved permission.

Representations

- 10.71 The large number of representations received in favour of the application demonstrate a level of support for the proposal and this is supplemented by the findings of the community engagement work undertaken by a third party on behalf of the applicant. Of the planning representations received the benefits of the development in terms of an enhanced retail offer, the accessibility and convenience of the store as well as job creation have been cited by residents, amongst other benefits.
- 10.72 On the other hand there have been some detailed objections received which include various material planning considerations. These concerns are addressed by LPA Officers directly below:
- Development would have a significant adverse impact on the vitality and viability of Salendine Nook Local Centre
 - Concerns raised with the applicant's retail assessment
 - Site is not edge of centre for retail purposes and does not meet the sequential test for sites, with more suitable sites available in the town centre. The sequential assessment is flawed.
 - The area is already served by similar stores, notably the Aldi being built on New Hey Road. Potential for an existing store to fail incurring a derelict site.
 - Detrimental impact on local businesses including the Salendine Nook Shopping Centre.

Officer Response: These considerations have been examined by the independent retail assessor and have been addressed within paragraphs 10.28 to 10.33 of this report.

- Concerns raised with extra traffic that would be generated, especially with the site being close to the high school, nursery, church and homes.
- Highway safety impacts, including as a result of the proposed access and increases in traffic generation that could impact pedestrians, notably school children.

Officer Response: These considerations have been examined within paragraphs 10.50 to 10.57 of this report. It should be highlighted that the applicant has commissioned a Road Safety Audit whose recommendations have been included in a revised conceptual design of internal site layout and its access.

- Design does not complement the area

Officer Response: These considerations have been examined within paragraphs 10.37 to 10.46 of this report.

- Potential noise nuisance/disturbance from HGV deliveries and intensification of site use, particularly at unsociable hours for local residents.
- More pollution from cars

Officer Response: These considerations have been examined within paragraph to 10.47 of this report with associated conditions recommended in section 12 of this report.

- Neighbouring properties overlooked by shoppers/loss of privacy

Officer Response: These considerations have been examined within paragraph to 10.48 of this report.

Planning obligations

10.73 In respect of a potential Section 106 agreement, the following would need to be secured to make the development acceptable in planning policy terms:

- A Biodiversity contribution of £44,620.
- 2no. Bus Stop Upgrades of £26,000 (2x £13,000)
- A Travel Plan monitoring fee of £10,000 (5 years at £2000py)
- Drainage Management Company until adoption by statutory undertaker.

Other Matters

Electric Vehicle Charging Points

10.74 The proposals include provision for electric vehicle recharging points. It is proposed that there will be two spaces for charging electric vehicles. The Air Quality Impact Assessment (AQIA) by Miller Goodall, dated 7th September 2019, (Ref: 102035V3) states that the development will include a Terra CGJ rapid charger, which will be able to fully charge two electric vehicles in 20 minutes.

- 10.75 Environmental Health acknowledge that for developments where some or all of the parking is likely to be used for shorter stay parking (30mins to 4 hours) then Fast (7-23kW) or Rapid (43kW+) charging points will be more appropriate. However, for a development of this size it would be expected that a minimum of 2 rapid (40 minute) chargers would be provisioned over 3 parking bays so that the same number of charging events as 11 fast chargers could be accommodated. Consequently, Environmental Health do not accept the proposal for one Terra CGJ rapid charger, and a condition would therefore be necessary for a scheme relating to electric vehicle charging points.

Climate Change

- 10.76 Addressing climate change is one of the core land use planning principles which the NPPF expects to underpin decision-taking. In this case the development would take account of climate change issues through the provision of electric vehicle charging points, a Travel Plan and suitable surface water drainage arrangements.

11.0 CONCLUSION

- 11.1 The proposal is for non-residential development on a site that is allocated for housing in the Local Plan. The loss of the housing land is regrettable, however sufficient justification to warrant a departure from the plan has been provided through rigorous independent examination of the site's viability for housing development and the proposed food stores impact on the viability of nearby local centres.
- 11.2 In respect of financial viability, the conclusion of the independent appraisal is that the site is not able to deliver a residential scheme that would enable a sufficient level of return (<15% profit margin), even before planning policy contributions are factored in. Conversely the sequential and retail impact tests have confirmed that the site is in a sequentially preferable location, being that no other identified sites are suitable or available, and that the proposed food store's trade diversion impacts upon defined centres (Marsh & Salendine Nook), are of an acceptable magnitude and that no centre would be the subject of a significant adverse impact that would erode an anchor store's role in either centre.
- 11.3 Nevertheless, it is acknowledged that the proposal would introduce a large food store with associated car parking and signage into a predominantly residential area and would therefore be somewhat at odds with its prevailing character. However, given that an allocated residential use is not able to come forward and that alternative uses should be identified for the site, the quality and layout of the development minimises its impact to an extent that prevents a reason for refusal being generated on visual amenity grounds in this instance.
- 11.4 Given that the principle of this application is considered to be acceptable in conjunction with favourable assessments in respect of residential amenity, transport impacts, sustainable drainage, ecology and contaminated land; 2021/94029 is recommended for approval to Strategic Committee subject to agreement of a Section 106 legal agreement for the planning obligations set out under paragraph 10.73 alongside the list of conditions set out in Section 12.

12.0 Summary List of Conditions (final wording and list to be delegated to the Head of Planning and Development):

- 1/. 3 Year Time Limit for Permission Implementation (TCPA S91)
- 2/. Development to be carried out in accordance with approved plan and document schedule.
- 3/. Construction Environmental Management Plan (Pre-commencement)
- 4/. Implement agreed Dust Mitigation Scheme
- 5/. Gross and net floorspace, convenience and comparison goods sales restrictions.
- 6/. No internal or external sub-division of premises for separate use or retail entity.
- 7/. Electric Vehicle Charging Points
- 8/. Implement Agreed Noise Mitigation Measures
- 9/. Acoustic Barrier Details
- 10/. Noise Specification from Fixed Plant & Equipment
- 11/. Customers Time Restrictions
- 12/. Delivery Time Restrictions
- 13/. Reporting Unexpected Contamination
- 14/. External Lighting Design Strategy for Biodiversity and Residential Amenity
- 15/. Submission of details relating to the kitchen extraction system for the bakery
- 16/. Submission of detailed Travel Plan
- 17/. Areas to be Surfaced and Drained
- 18/. Junction Access Sightlines
- 19/. Closure of Existing Access
- 20/. Submission of Details for a Right Turn Lane on New Hey Road (Pre-commencement)
- 21/. Retaining Walls (Pre-commencement)
- 22/. Implementation of agreed drainage design
- 23/. Drainage Attenuation and Flow Control Detail Submission (Pre-commencement)
- 24/. Sample of external facing materials and sample panel of masonry, inclusive of retaining wall facing materials
- 25/. Submission of detailed boundary wall specifications
- 26/. Ecological Design Strategy for Implementing Biodiversity Off-setting
- 27/. Working restrictions in respect of nesting birds
- 28/. Removal of invasive non-native species (Pre-commencement)

Background Papers:

Application and history files.

Website link:

[Planning application details | Kirklees Council](https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f94029)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f94029>

Certificate of Ownership – Certificate A signed.



Originator: David Wordsworth

Tel: 01484 221000

Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 02-Mar-2023

Subject: Planning Application 2022/93248 Demolition of existing Piazza shopping centre; part removal of Queensgate Market; demolition/retention of service tunnels; redevelopment of the site to form new public realm space (including public park and gardens, play areas, public square/outdoor event space); refurbishment and change of use of existing Queensgate Market Hall into food hall (Use Class E (b) sale of food and drink for consumption, mostly, on the premises); refurbishment and extension of existing library and art gallery building to form museum (Use Class F.1); change of use of part existing market hall building and extension to form public library (Use Class F.1); erection of indoor event venue incorporating multi-storey car park below (Sui-Generis); erection of public gallery building (Class F.1); associated infrastructure on land and buildings at Queensgate Market, Huddersfield Library and Art Gallery, and Piazza (and The Shambles) Shopping Centre (part Listed Building/part within a Conservation Area) Piazza Centre, Princess Alexandra Walk, Huddersfield, HD1 2RS

APPLICANT

KIRKLEES COUNCIL

DATE VALID

03-OCT-2022

TARGET DATE

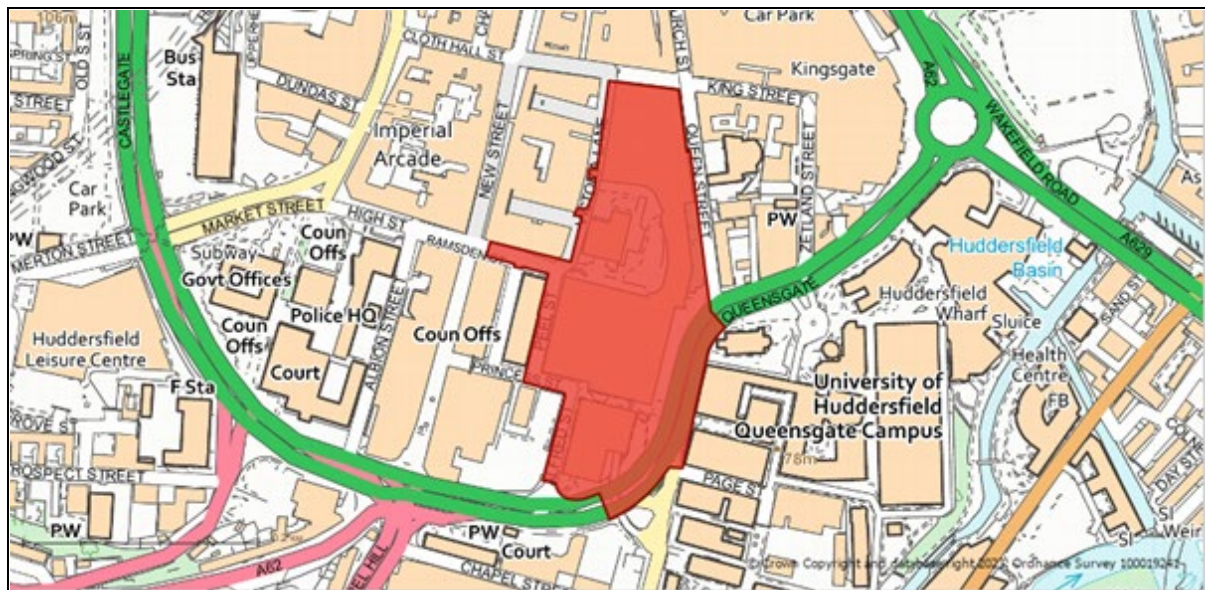
02-JAN-2023

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

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report and to secure a Section 111 agreement to cover the following matters:

1. Sustainable transport:- Framework Travel Plan (and subordinate plans) implementation and monitoring including fees – £15,000 (£3,000 for five years).

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

1.0 INTRODUCTION:

1.1 This application is presented to Strategic Planning Committee in accordance with the scheme of delegation given that the proposal is for non-residential development exceeding 0.5 Ha in size. The applicant is Kirklees Council represented by Pegasus Group.

1.2 The Kirklees Cultural Heart is a key flagship regeneration project for Kirklees Council and as a significant component of the Huddersfield Blueprint is of great importance to the ten-year vision to transform Huddersfield Town Centre. The development combines the retention and re-use of key civic buildings and the creation of a multi-functional, high-quality destination. Demolition will enable the site to be remodelled and rejuvenated and reveal open views over spacious leafy and useable areas of public realm. The scheme aims to improve accessibility within this part of the town centre and provide both indoor and outdoor spaces for events.

1.3 This is a full planning application for Demolition of the existing Piazza shopping centre, part removal of elements of Queensgate Market, and demolition/retention of service tunnels; with redevelopment of the site to form new public realm space (including public park and gardens, play areas, public square/outdoor event space); refurbishment and change of use of existing Queensgate Market Hall into new food hall (Use Class E (b) Sale of food and drink for consumption, mostly, on the premises); refurbishment and extension of existing library and art gallery building to form a new museum (Use Class F.1); change of use of part existing market hall building and extension to form a new public library (Use Class F.1); construction of new indoor event venue incorporating multi-storey car park below (Sui Generis); erection of new public gallery building (Class F.1); and associated infrastructure on land and buildings at Queensgate Market, Huddersfield Library and Art Gallery, and Piazza (and The Shambles) Shopping Centre, Huddersfield.'

1.4 The application inclusive of plans is supported by following documents:

- Planning Application Forms, Certificates & Fee
- Planning Pack of Drawings (see schedule attached to the cover letter)
- Design and Access Statement
- Planning Statement
- Voluntary EIA (ES) Statement including relevant chapters on planning, heritage, highways and air quality.
- Geotechnical and Geoenvironmental Technical Note (Site Investigation Phase 1 Assessment/Coal Mining Risk Assessment)
- Demolition Statement
- Structural Survey
- Utilities Statement
- Flood Risk Assessment
- Drainage Statement
- Waste Strategy
- Landscape and Public Realm Strategy (including Public Art statement)
- Transport Assessment
- Travel Plan
- Ecological Survey and Biodiversity Net Gain Assessment
- Sustainability Statement
- Noise Assessment Reports
- Ventilation and Extract Statement
- Public Realm Lighting Strategy
- Desk based Archaeology and Built Heritage Setting Assessment
- Heritage Impact Assessment
- Tree Survey
- Health Impact Assessment
- Economic Benefits Statement
- Townscape/Visual Impact Assessment
- Statements of Significance
- Statement of Community Involvement

1.5 The applicants made a pre-application submission (reference 2022/20509) on 11/04/22 in respect of the Cultural Heart project which was presented to Strategic Planning Committee on 11/04/23. The pre-app response was issued on 26/09/22 which set out the relevant policy considerations and responses from consultees within Kirklees Council. The principle of the development was considered acceptable, identifying the key issues for the development as listed below:

- Economy and Investment Opportunities
- Impacts upon Heritage Assets
- Urban Design and Public Realm
- Access Highways and Sustainable Travel
- Waste and Recycling
- Residential Amenity and Public Health
- Drainage
- Landscaping and Trees
- Biodiversity
- Security and Designing out Crime

1.6 More detailed comments were given on design issues and on the areas of public realm within the site to assist the applicants in providing a scheme that complies with council planning policies and guidance.

2.0 SITE AND SURROUNDINGS

2.1 The Application Site is located north and west of the A62 Queensgate, within Huddersfield Town Centre and falls within Newsome ward. The site is very accessible with Huddersfield train station to the northwest (approximately 500 metres), Huddersfield bus station to the west (approximately 350m). The site is bound by Queensgate A62 to the south and south-east; by Queen Street to the east; by King Street to the north and by Victoria Lane, Peel Street and Alfred Street to the west.

2.2 The site is surrounded by medium scale buildings of various styles, eras and materials which serve a variety of civic, social and commercial purposes and significant levels changes across the site, including 4.5m level change from Queen Street up to the existing Library building and a circa. 1.5m level change from the library up to the junction of Ramsden Street and Peel Street. The site covers an area of 3.93 ha and consists of the former (now demolished) multi-storey car park, the Queensgate Market (Grade II listed), the library and art gallery (Grade II listed) and the Piazza shopping centre, along with dispersed areas of open space.

2.3 An extensive network of underground service tunnels, below the site, service the surrounding area, most notably the Piazza shopping centre and the market. The A62 Queensgate frontage is largely characterised by the former site of the now demolished 4 storey multistorey car park and the eastern elevation of the Queensgate Market Hall and its artwork panels. The Market Hall is adjoined by the Piazza shopping centre, which wraps around the remainder of the sites eastern boundary and encloses around the Huddersfield Library and Art Gallery, which is located on (but within) the eastern edge of the site. Whilst the site sits between areas of open space, these open space areas are largely generally characterised with hard landscaping and limited street furniture and landscaping in terms of treatment, which is characteristic of within the public realm.

- 2.4 The site is overlooked by Huddersfield Town Hall and Concert Hall along the western boundary and further shopping areas which look out, into the site. The University of Huddersfield campus is located beyond the A62 to the Southeast, whilst the Lawrence Batley Theatre stands on the opposite (eastern) side of Queen Street. The application site is located entirely within Flood Zone 1 (an area at least risk of flooding), is not located within a Conservation Area and is located close to the boundary of Huddersfield Town Centre Conservation Area which is to the east and west of the site. There are a number of Listed Buildings in close proximity to the site including Huddersfield Town Hall (Grade II), St Pauls Hall (Grade II), Lawrence Batley Theatre (Grade II*).

3.0 PROPOSAL

- 3.1 The Cultural Heart involves demolition of buildings within the site, including the parade of shops within the Piazza, elements of the Market Hall fronting onto Peel Street, the Shambles shopping arcade and the retail units fronting Princess Alexandra Walk. The applicants state that the scheme will include the retention and reuse of two Listed Buildings within the site, namely Market Hall and the Library and Art Gallery. The development comprises of the following elements:

- Development of a Public Realm comprising terraces, gardens, play areas for children and a flexible public square/outdoor events venue with ability to host up to 3,000 persons
- Construction of a new two storey, gallery (Use Class F.1) of around 3,000sqm (Gross Internal Area);
- Construction of new public library onto east wing of Queensgate Market, including part change of use of existing market hall building
- Refurbishment and extension to existing library building, to convert into a museum building (Use Class F.1) around 6,000sqm (Gross Internal Area)
- Refurbishment and change of use of existing Queensgate Market Hall into new food hall (Use Class E) of around 2,500sqm (Gross Internal Area)
- Construction of new events venue (sui-generis) for concerts and exhibitions (up to 2,200 people capacity) at approximately 8,000sqm of Gross Internal Area; upon the site of the previously demolished multi-storey car park, south of Queensgate Market.

- 3.2 The Transportation/ Highways elements of the scheme consist of :

- Construction of new multi-storey car park situated below the new events venue, with a capacity for 350 cars
- A range of short and long stay cycle parking will be provided across the site, accessed from existing cycle routes surrounding the site.

- A single point of access for vehicles from the Queensway to the venue. Creation of a new signalised junction to the venue providing a left turn in and left turn out, as well as a right turn entry. The new access junction will include pedestrian and cycle crossing provision.
- The existing subway arrangements will become redundant, as will the existing vehicular access on Alfred Street. The tunnels area under the site will be retained and reconfigured to provide servicing for the site with access from Queen Street.

- 3.3 The application is accompanied by two separate Listed Building Consent applications shown below. Both Listed Building Consent applications are delegated to officers under the council's scheme of delegation and do not require a committee decisions' but will not be determined until a committee resolution is made upon the planning application.

2022/93234- For alterations, refurbishment and extension to accommodate new museum- Existing Library and Art Gallery, Princess Alexandra Walk, Huddersfield

2022/932345- Refurbishment/extension of Huddersfield Library and Art Gallery, into a new Museum- Queensgate Market Hall, Huddersfield.

4.0 RELEVANT PLANNING HISTORY

- 4.1 Most Relevant summarised below:

2008/91902 – Outline application for new residential development (C3), retail and leisure (approx. 418,000 sq. ft gross, encompassing A1 to A5 uses, including anchor, department store, mezzanine and new market hall, hotel (C1), new library, art gallery. Undetermined (neither withdrawn, nor decided).

Numerous minor shopfront alterations and signage applications for units within the Piazza Shopping Centre and The Shambles. Huddersfield Library

2006/94640 – Listed Building Consent for installation of CCTV system (internal and external). Granted 31st January 2007.

2021/91765 – Listed Building Consent for replacement flat roof and all associated rooflights, repairs and repointing to external elevations, installation of new rooflight to existing lightwell and structural repair works within the lightwell. Granted 25th August 2021.

2021/92044 – Listed Building Consent for the replacement of the existing single glazed windows. Withdrawn 12th November 2021. Queensgate Market

Numerous Listed Building Consent applications for shopfront alterations, internal alterations and associated works.

2020/93736 – Prior Approval for demolition of car park – Approved 8th December 2020.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Amendments made by applicants dated (Addendum 2nd December 2022) following comments received during the ongoing statutory public consultation phase (principally heritage, highways and comments from the KC Environmental Health Officer) and other minor design changes that the applicant considered necessary as part of a design process. The list of amendments is shown below. Full re-consultation and publicity commenced on January 4th 2023.

Proposed Gallery

1. Revised Lower Ground Floor entrance (design development)
2. Tunnel alignment change (design development)
3. 1no. Lower Ground Floor window removed (design development)
4. 1no. lower ground floor window reduced in width to accommodate internal rearrangement
5. Gantry level structure added to portion of lower roof to accommodate PV Panels along with access and maintenance

Proposed Library and Food Hall

1. Retained southern stair (Response to Historic England)
2. Retained eastern level 1 wall (Response to Historic England)
3. Reduced eastern elevation openings toward Queensgate (Response to Historic England)
4. Adjusted Library floor levels (design development)
5. Different glass / solid / opening glazing arrangement (design development)
6. Alternative south west entrances to food hall (design development)
7. New lower ground floor room configuration to service spaces (design development)
8. Different opening glazing arrangement to food hall - design development to meet ventilation requirements (design development to meet ventilation requirements)

Proposed Museum

1. Café / Entrance glazing and GIA extents increased by 60m² (design development), covered external seating area omitted and glazing line moved out.
2. New riser introduced at centre of plan (Response to Historic England). Part retention of existing book lifts' shafts and linings for use as M&E risers - design development.
3. Roof light arrangement updated (design development)
4. Basement extents amended (design development)
5. Western infill elevation updated (design development)
6. Change to size and profile of new rooflights over the former top floor gallery spaces (design development)
7. Inclusion of a structure at roof level to support new building parapet (design development)
8. Level 01 AWC changed to store (design development)
9. Lift overruns removed (design development)
10. Updated text to Heritage Impact Assessment

Proposed Venue

1. Alternative entrance locations (design development)
2. Vent relocations (design development and response to EHO comments)
3. Minor changes to north and west door locations (design development)

- 5.2 Officers reviewed the design of the scheme and advised the applicants that several amendments were required. Amendments and Clarifications made by applicants dated was followed meeting with officers to consider materials and elevation changes to the following three specific areas.

1. Museum: Clarification of requirement for the height of the extension to the northern elevation: The applicants provided justification and aerial view of plant space above the roof level and an engineers plan of the plant required for the building. Amendment to western elevation to reduce mullions on to accentuate the horizontal rhythm of the metal panels.

2. Gallery: Amendment to South facing façade additional and wider windows to break up the facade

3. Venue: Clarification of external materials and the approach to colour and texture affecting external character given nits prominence, and sensitivity sitting adjacent to heritage assets.

6.0 PLANNING POLICY AND GUIDANCE

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27/02/2019).

Kirklees Local Plan (2019)

- 6.2 The application site is within Huddersfield town centre (TCB1) and within the primary shopping area (PSA1) and includes 5 primary shopping frontages set out below and as designated in the local plan:

Primary shopping frontages:

- PSF5 (part, 20- 24 King Street)
- PSF8 1 Princess Alexandra Walk to 20 Princess Alexandra Walk
- PSF9 1 The Shambles to 21 Princess Alexandra Walk
- PSF10 12 The Shambles to 11 Victoria Lane
- PSF12 (Queensgate Market)

- 6.3 The most relevant Local Plan policies are:

LP1 – Presumption in favour of sustainable development

LP2 – Place shaping

LP3 – Location of new development

LP4 – Providing infrastructure

LP5 – Masterplanning sites

LP7 – Efficient and effective use of land and buildings

LP9 – Supporting skilled and flexible communities and workforce
 LP13 – Town centre uses
 LP14 Shopping frontages
 LP16 Food and drink uses and the evening economy
 LP18 –
 LP19 – Strategic transport infrastructure
 LP20 – Sustainable travel
 LP21 – Highways and access
 LP22 – Parking
 LP23 – Core walking and cycling network
 LP24 – Design
 LP26 – Renewable and low carbon energy
 LP27 – Flood risk
 LP28 – Drainage
 LP30 – Biodiversity and geodiversity
 LP32 – Landscape
 LP33 – Trees
 LP35 – Historic environment
 LP47 – Healthy, active and safe lifestyles
 LP48 – Community facilities and services
 LP51 – Protection and improvement of local air quality
 LP52 – Protection and improvement of environmental quality
 LP53 – Contaminated and unstable land
 LP63 – New open space
 LP67 – Mixed use allocations

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

Supplementary Planning Documents

- Highways Design Guide SPD (2019)
- Guidance documents
 Huddersfield Blueprint (2021)
 Biodiversity Net Gain Technical Advice Note (2021)
 Planning Applications Climate Change Guidance (2021)
 West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
 Waste Management Design Guide for New Developments (2020)
 Green Street Principles (2017)
 Planning Applications Climate Change Guidance (2021)
 Biodiversity Net Gain Technical Advice Note (2021)

Climate change

- 6.5 The Council approved Climate Emergency measures at its meeting of full Council on 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.

- 6.6 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

National Planning Guidance

- 6.7 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) 2021, published 20th July 2021, and the Planning Practice Guidance Suite (PPGS), first launched 6th March 2014, together with C circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

- 6.8 Other relevant national guidance and documents:

7.0 PUBLIC/LOCAL RESPONSE

- 7.1 The application was advertised as a major development that is accompanied by an Environmental Impact Assessment (EIA) and involves alterations or demolition works to two listed buildings. Additionally, the proposal would affect the setting of listed buildings and a conservation area. Letters were sent to neighbouring properties on 10th October 2022. Nine site notices were posted on 1st December 2022 and a press notice was published on 02nd December 2022 (providing details relating to the Environmental Statement) was published.

- 7.2 Full publicity and re-consultations were again undertaken upon receiving amended plans. Letters were sent on 5th January 2023 to addresses close to the application site and within the surrounding area and site notices were again posted which in line with the council's adopted Statement of Community Involvement. 8 representations were received in response to the council's consultation on application 2022/93248. The following is a summary of the comments made:

Design

- It is more appropriate for the buildings to have a more traditional stone solid appearance with the historical buildings in Huddersfield.
- The more modern looking buildings in town are the ones that have not stood the test of time and are the ones we plan to take down
- Scheme disregards the significance of the grade II listed staircase through ceramic panel 10 onto Queensgate. The form and geometry of the 1970 staircase was extraordinary with an apparently unsupported raw concrete stringer beam, pale Ballidon limestone with a glistening quartz-like material concrete riser and tread ends with occasional but regular ballusters bearing black profile- This highly sculptural form is unusual and spectacular – not just a utilitarian staircase that has carried many hundreds of people a day for 50 years.
- Effort is required to re-instate the lost bronzes to library entrance windows
- Salvage of 1970's market hall Perspex signage flooring and lighting and fenestration should be conditioned

Trees

- There is no way that the replacement of the mature trees proposed to be destroyed can be mitigated by replanting. Loss of visual amenity, their local cooling effect, the habitat provided nor their contribution to absorbing pollution and carbon dioxide.
- Urban trees are now so difficult to establish, with vandalism and hot summers that every single successful tree already growing in a heavily urban location like this should be protected at all costs
- Designers wish for bare, cubist ugly concrete walls to create those clean lines, devoid of any natural softening should not be indulged at the expense of our health and wellbeing.
- There are 27 trees to be felled. These trees are mainly street council owned trees. These trees have been maintained by Kirklees council using public money. We have paid for these trees
- Objective 7 states that proposals in the Local Plan should be consistent with promoting development that helps to reduce and mitigate climate change
- Kirklees Council has declared a Climate Emergency and a commitment to Net Zero, while the Climate Change Act 2008 (as amended) targets 100% reduction in Green House Gas by 2050
- The 26 mature trees proposed to be felled (each be nominally equivalent to the carbon sequestration of about 500 10 year old trees, making a total of 13,000 10 year old trees (1), or each 4000 saplings, total 100,000 saplings.

- The trees proposed to be felled, are all or partly in a Conservation Area and thus are subject to protections of Tree Preservation Orders.
- There is no good reason that the trees should not be conserved within the scheme
- The proposed tree felling negates the Council's own Technical Advice Note & Policy LP30 of the Kirklees Local Plan requires development proposals to "provide (10%) Biodiversity Net Gain
- Queensgate trees - remove the ill-conceived, disfigured, non TPO, non-conservation area trees on Queensgate to enhance the street and listed building elevation
- *Carbon Reduction /Renewable Energy*
- WYCA's Climate Emergency declaration and Carbon Emissions Reduction Programme (CERP), identifies the vital role of Trees and Air Quality
- "Retaining an existing tree (provided it has adequate space for root and crown development) is five times more cost effective than periodic removal and replacement
- Shows little ambition, serious commitment or innovation to absolutely minimise/zero carbon footprint of the development
- Missed opportunity to maximise the renewable energy generation capacity of the development, most likely Solar PV on the very significant
- The condition of the Piazza Centre is such that refurbishment is a viable option Refurbishing existing buildings generates substantially less carbon emissions than demolition and redevelopment and should therefore be the preferred option.

Transport

- Innovative practical incentives for access by public transport and discouragement for car use
- To achieve "good access" cyclists will need better and safer links implemented – some of which are anticipated in future schemes that incorporate new junction designs, reallocation of road space These will need to include improved crossing of the ring road for cyclists (and pedestrians) at Trinity Street, St John's Road/Bradford Road, Leeds Road, Wakefield Road, South Queen Street, Manchester Road/Outcote Bank
- The Access to Queen Street from the proposed square should be consulted on with the wider public and people with restricted access abilities.
- The absence of car park access from one side of Queensgate is a surprise. They underpass has worked well. Only anti clockwise access planned! Why?
- Managing commercial, traffic and pedestrian interests (access, noise working hours) during demolition and construction needs conditioning.

- There was underground access, under Peel Street, from the former police station on the site of Queensgate Market. It is reputed to still be there. Is it worth looking at restoring from town hall to food court ?

Loss of facilities

- Huddersfield is losing its indoor market and there are no plans to replace this
- Lack of information as to how the proposed new museum will work alongside the existing Tolson Museum nearby
- Great loss of workplaces and amenity Piazza Arts Centre has become a popular, vibrant, diverse and hugely successful Centre. Refurbish the Piazza Arts Centre in genuine partnership with Arts Centre users is preferred
- Kirklees council should adopt a community development approach to help the Arts Centre establish the necessary organisational and business plan development

Other

- Lighting of food court area and Queensgate exterior needs conditioning.
- Lighting of park area and public art needs fuller detailing.
- Absence of any public art or provision for later instalment is disappointing

8.0 CONSULTATION RESPONSES:

8.1 Below is a summary of the consultation responses received:

Statutory Consultees

KC Highways DM No Objection subject to:

- Submission of independent Stage 1 RSA and Designer's Response satisfactorily addressing any issues identified in the audit
- Finalising and agreeing traffic modelling to satisfaction UTM Urban Traffic Management Control

KC Lead Local Flooding Authority (LLFA) - SUPPORT

Responses dated 28/10/22 and 25/01/23

LLFA confirm acceptance of the following as indicated in the Drainage Statement document and on the Proposed Drainage Strategy drawing:

- proposed climate change allowance of 40%
- allowable surface water discharge rate of 195 l/s (based on 30% betterment of existing surface water run-off rate of 278 l/s equal to the current run-off from 2.0 ha) for the critical 1 in 100 year (plus climate change) rainfall event
- the proposal to discharge attenuated surface water run-off into the existing (or diverted) YW Combined sewers crossing or adjacent to the site

Advise the following drainage conditions

- Detailed design scheme detailing foul, surface water and land drainage
- Overland Flow Routing
- Construction Phase Surface Water Flood Risk and Pollution prevention plan

Historic England- No objection

Response dated 11/11/22

No objection to the applications on heritage grounds. We consider that the issues and safeguards outlined in our advice need to be addressed in order for the applications to meet the requirements of paragraphs 199, 200 and 202 of the NPPF.

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

Your authority should take these representations into account in determining the applications.

Historic Buildings & Places

Response dated 15/11/23

Historic Buildings & Places (HB&P) is the working name of the Ancient Monuments Society, a registered charity in England and Wales (no. 209605). It is one of the National Amenity Societies and, as such, is a consultee on all Listed Building Consent applications involving an element of demolition.

- Comments are relevant to NPPF (2021) policy considerations in paragraphs 195.199, 200
- Concerns re the treatment of the main market hall space and the 'peeling back' has gone too far.
- Concerns re replacing the external walls with full height glazing will result in the loss of the sense of enclosure within the market, as well as the long strips of horizontal parallel windows to the top of the outer walls that help draw your eye to the wonderful roof form.
- Better mix of solid and glazed walls are needed to protect the character of this grade II listed building
- A solid wall would also be a preferable background for the 'Commerce' artwork, as it is presently experienced.

Twentieth Century Society

Response dated 15/11/23

The Society's Caseworker has been involved in multiple preapplication meetings and attended a site visit, and the scheme has been reviewed by the Society's advisory Casework Committee.

Concerns

- proposals to 'peel back' the market elevations to reveal the mushroom columns, which are currently concealed
- the loss of the market manager's office (the 'panopticon'), which is an original component of the plan and design of the market's interiors.
- Regret the loss of the Piazza Shopping Centre which was key phase of the Murrayfield development and a good example of the architect's commercial work and of the kind of American-style enclosed malls built in England in the 1960s and 70s. It should be considered a Non-Designated Heritage Asset (NDHA) and positive contributor to the setting of the Grade II Market Hall.

No objections

- proposals to convert the Grade II Library and Art Gallery,
- the proposed extension to the north
- conversion of the Grade II Queensgate Market to a food hall and library.
- proposed removal of the surrounding retail units and arcades
- welcomes proposals to retain and conserve
- the Fritz Stellar 'Commerce' and 'Articulation in Movement' artworks, as of high significance.

Coal Authority - No objections subject to conditions

Response dated 24/10/22

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. The Coal Authority records indicate that the site lies in an area of probable unrecorded underground coal mine workings at shallow depth. If shallow workings are present, then those pose a potential risk to surface stability and public safety. The application is accompanied by a Coal Mining Risk Assessment

It should be noted that where SUDs are proposed as part of the development scheme consideration will need to be given to the implications of this in relation to the stability and public safety risks posed by coal mining legacy. Wherever coal resources or coal mine features exist at shallow depth or at the surface, there is the potential for mine gases to exist. These risks should always be considered by the LPA.

Non Statutory

Huddersfield Civic Society

Object on the following grounds:

- Operation of the car park via a single entry onto the Ring Rd is unworkable, unsafe etc
- The provision of secure inadequate visitor cycle parking around the perimeter
- Inadequacy of the proposed parking provision
- Multi-modal transport journeys (which may/may not be timetabled to accommodate late finishes
- Without key evidence of viability, Councillors do not have sufficient evidence to decide on approval of the plans and/or its related spend
- Reassurance should be obtained that the site's electrical substation will support 100% EV charging and other commercial EV
- Skateboarding: This feature should be eliminated from the scheme design.
- A radical reduction in the maximum size of events in this space.
- The absence of a lift at this location, to assist people with Disabilities
- Demolition of Retail Units on King Street
- Elevational Details on several proposed buildings

Support on the following grounds:

- High quality public realm, in the area currently occupied by the Piazza through to Peel Street and Alfred Street.

Other comments

- approved scheme could include exercise facilities for adults
- exercise and play
- facilities are concentrated into one side of the public realm, leaving other areas as
- quieter spaces for rest, relaxation
- open space -must provide of an acceptable operational plan detailing how it will be managed
- condition required the provision of some form of 'capital' funding from the scheme, to underwrite maintenance costs
- Concern that the scheme does not allow safe operation of pop-up, ticketed events for up to 3,000 people

KC-Conservation & Design

Supports the Cultural Heart initiative, with the redevelopment of an area of the town which is currently under-used and has great potential. A strong emphasis is placed on the restoration and viable uses of Queensgate Market and Huddersfield Library and Art Gallery, with new links to the historic King Street, Queen Street and the wider town centre.

- support the demolition of modern retail buildings within the Piazza
- welcome the restoration and adaptation of the listed market and library building with the repair and restoration of deteriorated elements

- amendments have been made in line with comments by the Conservation and Design Team, with clear justification submitted where changes would impact on the function of the buildings and internal space.

Some elements of the proposal, cause less than substantial to the heritage assets within and surrounding the site. This harm is clearly outweighed by substantial public benefits, with the redevelopment of an underused part of town and creation of a cultural area for public use, the enhancement of a significant space within the town, and the restoration and enhancement of Queensgate Market and Huddersfield Library and Art Gallery.

No objections to the scheme, subject to the conditions below and those attached to the associated listed building consent applications

KC Highway Structures

Response dated 07/02/23

No objections subject to conditions on retaining walls, surface water attenuation tanks and informative on private service tunnels

KC Ecology

Response dated 01/11/22

An Ecological Survey Report and Biodiversity Net Gain Assessment have been submitted with the application. The site is of minimal ecological value, offering limited opportunities for protected species.

The Biodiversity Net Gain (BNG) Assessment submitted with the report results in a post-development total of 3.61 Habitat Units equating to a gain of 55.68% against the baseline. The level of BNG can be secured through an appropriately worded condition, which will allow a management plan to cover a period of 30 years.

No objection to this application, and it will provide a useful tool in connecting a highly urbanised environment to the wider area, providing significant recourses for a wide range of biodiversity receptors.

KC Trees

Response dated 23/01/23

The updated landscape scheme provides more planting around the Venue, car park and Queensgate frontage; and more tree planting on edge of The Square. The detail provided of the tree planting in general is very good and reassures the Council that the new trees will include large and medium trees with suitable soil volume for them to become established and withstand the environmental challenges of the urban area. Tree cover in the site will increase as a result of the proposals and over time will have a much greener and softer environment for users of the area which along with the design of the landscape should encourage much more use of the green area than currently occurs.

The landscaping scheme not only replaces the trees removed from the existing site but will enhance the area with more trees that will create a better environment around the built elements.

The existing tree information will need to be updated so recommend a condition to request it be attached should consent be granted.

KC Environmental Health (Pollution & Noise Control)- No objections

Responses dated 28/10/22 and 23/01/23

Air Quality

The site is located within Kirklees Councils Air Quality Management Area (AQMA) No.9 which encompasses Huddersfield Town Centre and was declared due to exceedances of the annual mean air quality objective for nitrogen dioxide (NO₂). An Air Quality Assessment has been undertaken

A qualitative assessment of construction phase impacts associated with fugitive dust emissions was undertaken and a damage cost calculation. Officers recommend a Dust Management Plan to control fugitive dust emissions during the construction phase is included within the site-specific Construction Environmental Management Plan.

Require a condition requiring a scheme to be submitted regarding the Electric Vehicle Charging Points

Contaminated Land:

The technical note summarises the several potential sources of contamination including contaminated made ground, contaminated perched and shallow water, infilled land and mine workings. In addition, several potential pollutant linkages are identified. An Intrusive investigation is necessary. No objection to the application subject to the necessary contamination land conditions being applied to any permission granted.

Noise

The applicants have submitted the following Noise Impact Assessments that identify the nearest noise sensitive receptors. The submitted reports are accepted but further information will be required once design details have been finalised. A condition is therefore necessary.

Artificial Lighting

Public Realm Lighting Strategy by Arup (ref: CDT430201-ARP ZZ-ZZ-RP-YL-00002), dated 30th Sept 2022, has been submitted. Officer's accept the lighting strategy and therefore recommend a condition to secure the mitigation as detailed in the accepted report.

Construction Environment Management Plan

Although the Environmental Statement lists the general mitigation for dust control from the IAQM guidance, this does not constitute a site-specific Construction Environmental Management Plan. It also does not adequately address the possible loss of amenity from noise during construction. Officers therefore recommend a condition requiring a site-specific Construction Environmental Management Plan.

Environmental Health Officers have no objection subject to several conditions

KC Street Scene

The proposed redevelopment does not include residential properties and therefore the Waste Collection Authority does not have a duty to collect waste from the site unless requested to do so. The WCA does want to ensure any new developments have appropriate waste storage capacity on site for a range of source separated wastes and to maximise recycling and efficient collection

The Site Waste Management Plan (SWMP) is focussed on waste generation during the demolition and construction activities whereas the Operational Recycling and Waste Strategy relates to ongoing servicing of the site. The level of detail in both documents is welcomed and has addressed the points raised in the pre application discussions.

KC Public Health – No Objections

Response dated 27/10/22

Commented on the Rapid HIA that submitted by the applicants

9.0 SUMMARY MAIN ISSUES

9.1 The main planning issues are relevant to this application are as follows:

- Environmental Impact Assessment
- Principle
- Town Centre Planning Policy Considerations
- Economy and Investment Opportunities
- Phasing & Delivery
- Urban Design and Public Realm
- Impacts upon Heritage Assets
- Access Highways and Sustainable Travel
- Waste and Recycling
- Residential Amenity and Public Health
- Drainage
- Biodiversity & Trees
- Security and Designing out Crime

Environmental Impact Assessment

9.2 The statutory requirements for carrying out an EIA, the contents of the ES and the procedures for determining planning applications for 'EIA Development' are set out within the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 as amended (the "EIA Regulations").

9.3 The site has previously been subject to EIA Screening (Ref 2022/20030) and EIA Scoping Request. The council's EIA screening response dated 3rd March 2022 concluded that the proposal did not require an Environmental Statement (ES). The submission of the planning application in September 2023 deviated from the pre-application submission in terms of the floorspace the application red line boundary which necessitated a further EIA screening opinion to ensure consistency. The

response dated 4th January 2023 (ref 2022/93248) concluded that that the proposed development has been assessed under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and does not require an Environmental Statement.

- 9.4 It should be noted the applicants submitted a voluntary Environment impact Assessment with the planning application. A Scoping Request was made on 8th June 2022. Technical responses from Kirklees Council Officers covering Transport, Air Quality and Heritage matters were subsequently provided. The matters considered in the ES are as follows:
- Chapter 1 Introduction
 - Chapter 2 Assessment Scope and Methodology
 - Chapter 3 The Application Site
 - Chapter 4 The Proposed Development and Alternatives Considered
 - Chapter 5 Planning Policy Context
 - Chapter 6 Socio-Economics
 - Chapter 7 Cultural Heritage
 - Chapter 8 Transport
 - Chapter 9 Air Quality

Principle

- 9.5 Planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions. The Local Plan strategy and policies should be considered as a whole and was found to be an appropriate basis for the planning of the borough by the relevant Inspector, strongly encourages the use of the borough's brownfield land.
- 9.6 The site is unallocated in the Kirklees Local Plan within the defined Huddersfield Town Centre boundary. (TCB1), predominately in the primary shopping area (PSA1) and includes 5 primary shopping frontages as designated in the local plan. These are:
- PSF5 (part, 20- 24 King Street)
 - PSF8 1 Princess Alexandra Walk to 20 Princess Alexandra Walk
 - PSF9 1 The Shambles to 21 Princess Alexandra Walk
 - PSF10 12 The Shambles to 11 Victoria Lane
 - PSF12 (Queensgate Market)

The main policy considerations are set out below. Policy LP2- Place Shaping: states that all development proposals should seek to build on the strengths and opportunities and help address the challenges identified in order to protect and enhance the character of these places. The proposal is in the Huddersfield sub-area. The strengths and opportunities of the site are summarised below:

- 9.7 Strengths/Opportunities
- The town centre is the district's main cultural and leisure hub with opportunities to enhance this provision
 - The town centre is a focus for shopping and leisure and there are opportunities to enhance this provision, including through enhanced independent retail
 - Priority in Kirklees Economic Strategy to revitalise Huddersfield town centre

9.8 Challenges

- Poor air quality in some areas
- Some historic buildings are in poor condition

- 9.9 At the Cabinet meeting of 25th February 2020 the council endorsed the 'Huddersfield Blueprint' which is the regeneration strategy for Huddersfield town centre. The Blueprint is a ten-year vision to create a modern and thriving town centre including a vibrant culture, art and leisure offer at the new 'Cultural Heart'.

The council's vision for the Cultural Heart as set out in the Cabinet Report is for 'a new Cultural Heart, built around the Queensgate Market and library building, which includes; a library, art gallery, museum and live music venue in the Piazza and Queensgate area. As part of the new Cultural Heart, the plans propose to remove buildings in the Piazza area to create a large, family-friendly open space for people to gather.'

- 9.10 The proposal accords with policy LP2 as a major scheme aiming to revitalise Huddersfield Town Centre which will enhance the culture and leisure provision and it is identified in the Council's regeneration strategy.
- 9.11 LP3 Location of new development: states that development proposals will be required to reflect the Spatial Development Strategy, Policy LP1 Presumption in Favour of Sustainable Development and Policy LP2 Place Shaping. This means: 1) Development should reflect:
- a. the settlement's size and function; and
 - b. place shaping strengths, opportunities and challenges for growth; and
 - c. spatial priorities for urban renaissance and regeneration; and
 - d. the need to provide for new homes and jobs.
- 9.12 The Spatial Development Strategy highlights that the place based approach allows most growth to be met in the main urban areas of Huddersfield and Dewsbury in accordance with the spatial vision and a more flexible approach elsewhere to achieve a sustainable pattern of development. More specifically, it states that 'the focus of new retail, leisure, office, cultural and tourist facilities development is in the district's identified centres and on identified mixed use allocations, taking advantage of existing services and high levels of accessibility.'
- 9.13 To deliver the Spatial Development Strategy in relation to strengthening the role of town centres, a regeneration focus on Huddersfield Town Centre is identified. The scale and mix of uses proposed for this development as part of the regeneration of Huddersfield Town Centre is in accordance with policy LP3.
- 9.14 Policy LP13 Town centre uses: defines Huddersfield Town Centre as a Principal Town Centre and its role and function is to: 'Provide for the shopping needs (particularly for non-food goods) of residents across Kirklees. The main focus in Kirklees for the provision of financial and professional services; offices, entertainment; sport, leisure, arts, culture and tourism facilities; further and higher education; and health services.' LP13 states that centres should provide a mix of uses to serve the local community, businesses and visitors, the uses should complement each other whilst retaining a strong retail core and aim to provide a range of uses to support the daytime and evening economy. The proposal provides a mix of uses that

complement each other and introduces new leisure and cultural uses in the form of a music venue and museum of a type and size not currently in the town centre. Through providing a range of new and enhanced facilities and services the proposal should support both the daytime and evening economy.

- 9.15 The entertainment, leisure, arts and culture facilities proposed are main town centre uses and are of a scale appropriate for Huddersfield Town Centre. The proposal will enhance the experience of those visiting the centre and should support the centre to retain and increase its market share.
- 9.16 LP14 Shopping frontages- The site is within the primary shopping area of Huddersfield Town Centre and includes the 5 primary shopping frontages proposed to be demolished, as set out above. In the case of PSF 12 Queensgate Market, part of the frontage is proposed to be demolished and remaining structure redeveloped into the food court.
- 9.17 Paragraph 86 in chapter 7 of the NPPF, Ensuring the vitality of town centres, states that 'Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.' Town centres and retail planning practice guidance highlights that local planning authorities need to consider structural changes in the economy, in particular changes in shopping and leisure patterns and formats and the impact these are likely to have on individual town centres. The Government's 'High Streets and Town Centres in 2030' report (February 2019), highlights that the impact of the growth in on-line shopping on town centres in the form of store closures, persistently empty shops and declining footfall is clear. It goes on to state that town centres can survive and thrive if they adapt with a vision for activity-based community gathering places where retail is a smaller part of a wider range of uses including green space, leisure, arts and culture. This is reflected in the Huddersfield Blueprint vision.
- 9.18 It is considered that the loss of long-term vacant units and primary frontages at this specific location within the primary shopping area with the regeneration focus on town centre uses could help to strengthen the remaining retail core. The regeneration of the piazza area should attract visitors to the town centre facilitating linked trips and enhance the vitality and viability of the centre supporting the Blueprint vision
- 9.19 LP16 Food and drink uses and the evening economy- Policy LP16 supports proposals for food and drink and licensed entertainment uses within defined centres subject to 'ensuring the concentration of food and drink and licensed entertainment uses are not located in a particular centre or part of a centre, where they would result in harm to the character, function, vitality and viability of the centre, either individually or cumulatively.
- 9.20 LP17 Huddersfield Town Centre- This policy seeks to meet a priority of the Kirklees Economic Strategy 2014-2020 to revitalise Huddersfield Town Centre with more cultural, leisure and independent retail attractions, with the aim of increasing pedestrian footfall and vitality of the town centre. Revitalised centres are set out as a priority in the Kirklees Economic Strategy 2019 – 2025.

- 9.21 LP17 states that 'Huddersfield Town Centre will be the principal focus for high quality comparison retail goods within the district, supported by a range of leisure, tourism, office (including high quality grade A office space), and other main town centres uses.' Criteria defines where proposals for new development will be supported.

Conclusion on Principle

- 9.22 Given national policy support in the NPPF, particularly through chapters 7 and 12 and local policy, through a number of Kirklees Local Plan policies, including LP2 and LP17 for investment within Town Centres, and the Huddersfield Blueprint which establishes the regeneration strategy for Huddersfield town centre, as a major scheme aiming to revitalise Huddersfield Town Centre, the principle of development can be supported.

Town Centre Planning Policy Considerations

- 9.23 The new uses proposed as part of the KCH scheme include leisure and entertainment, including the new concert venue (which can also be used for conference facilities), restaurants in the food offering within the new food hall, arts and culture development including the new museum, art gallery and library. These proposed developments are all considered 'main town centre uses' as per the Government NPPF definition and therefore accord with the Government approach to allowing a variety of uses within the Town Centre and do provide a number of 'active ground floor uses' in (part) accordance with Policy LP14.
- 9.24 The NPPF have broadened the range of 'main town centre uses', but the changing nature of the 'traditional high street', the impact of Covid-19 and changes to the Use Classes Order (amended on 1st September 2020) relating to Class E and F (where permitted development rights are set out in the Town and Country Planning (General Permitted Development) (England) Order 2015) are material considerations that need to be considered, and which outweigh outdated frontage policies. The introduction of the new Class E and F uses are designed to bring flexibility to town centres to enhance vitality and viability.
- 9.25 Retailing on the traditional high street and also the impacts of the Covid 19 pandemic has resulted in a closure of significant numbers of shops within Huddersfield, including long established chains such as BHS, House of Fraser and M&S Foodhall.

Retail Impact Assessments:

- 9.26 Retail Impact Assessments are necessary for proposals (including the formation of mezzanine floors) for/or which include retail, leisure and office developments which are not located within a defined centre. Given the proposals are for 'Main Town Centre Uses' as defined within the NPPF glossary, and are all entirely within the Town Centre, a Retail Impact Assessment is not required.

Sequential Test:

- 9.27 Local planning authorities are required by paragraph 87 of the NPPF apply a sequential test to planning applications which come forward for main town centre uses, which are located outside of the defined centre boundaries. Given that the proposals are located within the Primary Shopping Area and not outside the defined centre boundary, a sequential test is not required to be submitted for this development proposal.

9.28 Relocation of Existing Retailers

It is noted that the applicants comment within the Planning Statement that the existing retailers and traders within the Market Hall have been offered opportunities for relocation to the Huddersfield Open Market or other premises within the town centre. Relocations will help to consolidate and strengthen the retail offer in other parts of the Town Centre. These decisions are made by the individual retailer, and whilst some are, others are not. By September 2022 24 of the 33 businesses from Queensgate Market were understood to be relocating elsewhere within the town centre.

Employment, skills and social value

9.29 Kirklees Council Economic Strategy was published in April 2019 and covers the period 2019-2025. The vision of the Economic Strategy is to create an inclusive and productive Kirklees

9.30 Local Plan policy LP9 states that the council will work with partners to accelerate economic growth through the development of skilled and flexible communities and workforce in order to underpin future economic growth to deliver the Kirklees Economic Strategy. It adds:

Wherever possible, proposals for new development will be strongly encouraged to contribute to the creation of local employment opportunities within the district with the aim of increasing wage levels and to support growth in the overall proportion of the districts' residents in education or training. Applicants should reach an agreement with the council about measures to achieve this, which could include: provision of specific training and apprenticeships that are related to the proposed development or support other agreed priorities for improving skills and education in Kirklees or the creation of conditions to support a higher performing workforce, increasing productivity and the in work progression of employees. The Council will therefore seek to secure an agreed training or apprenticeship programme with applicants [where specified thresholds are met by proposed developments].

9.31 The proposed development meets one of the thresholds set out in policy LP9 for employment developments delivering 3,500sqm or more of business or industrial floorspace). The applicants submitted an Economic Benefits Statement (ref: P21-0731 ROO1v5 EC EBS). The main findings of which can be summarised below:

Operational impacts:

9.32 Direct and indirect construction-related employment: The Proposed Development will support up to 924 temporary jobs on and off-site during the 3-year build phase.

9.33 Contribution of construction phase to economic output: It is estimated that up to £148million of gross value added (GVA) could be generated during the 3-year construction period in current price

Operational Impacts:

9.34 Employment: The Proposed Development will support up to 459 gross full-time equivalent jobs on-site once operational.

- 9.35 Contribution to economic output: The additional GVA attributable to the site once operational and fully occupied is estimated at £10.2million per annum.
- 9.36 Social value: It is estimated that the Proposed Development will generate £10.5 million in social value from the museum, gallery, library and other cultural activities and amenities.
- 9.37 Visitor Spend: It is estimated that spend from day visits and overnight visits to the scheme will be around £18.1 million.
- 9.38 Officer's consider that the applicant's estimates appear to demonstrate an acceptable and substantial economic benefit to Huddersfield
- 9.39 On 21/09/2022, Cabinet approved a Social Value Policy which defines social value as:
- ...the broad set of economic, social and environmental benefits that may be delivered in addition to the original goods or service being provided. They may include jobs and training, support of local businesses and community organisations, and to our environment. These benefits may be delivered through procurement, our employment practices, our grants and investments or other processes.*
- 9.40 The Social Value Policy confirms that the council will consider social value in relation to planning and development, particularly major planning applications. The council will negotiate social value obligations for all major developments, within the exiting Local Plan policy framework and subject to meeting legal tests of the Section 106 process and will use Section 106 agreements and other levers to ensure commitments are achieved.

Phasing & Delivery

- 9.41 Para 4.2.4 of the applicants Environmental Statement is relevant to the phasing of the development and states- *It is the ambition of the Council, to bring forward the development comprehensively, although component parts can be brought forward at different phases, if required*".
- 9.42 Planning for construction does require some flexibility and could be subject to modification during the development of the site. The applicants also state that *the likely significant effects of the construction of the Proposed Development have been identified with the best possible degree of accuracy.*
- 9.43 The proposed working procedures during the construction period will be provided to Kirklees Council (and other relevant bodies) in the form of a Construction Management Plan (CMP) and/or Construction Environmental Management Plan (CEMP) prior to commencement of the works, to be subject and this will be required by planning conditions planning condition. This will include confirmation of working hours. The proposed measures would include for 'Standard measures and the adoption of construction best practice methods' as referred to in the Assessment Approach and presumed to be in place for the purpose of the technical assessments set out in the ES assumes a multi-year build programme, and the first phase will be the works for the proposed food hall, new library and the outdoor event space. Any grant of planning permission will be conditioned so that a phasing plan can be submitted once to the LPA to give more detail when a construction programme has evolved.

- 9.44 The applicants have requested a 5-year timeframe with which to commence development. So would extend the standard timeframe of 3 years by a further 2 years. The scale of the uncertainty of the economy is such that project and the applicants request is considered to be reasonable and justified. Officers do not oppose this request and should committee members wish to grant permission a 5 year timeframe with which to commence development would be attached by condition.

Urban Design & Public Realm

- 9.45 Local Plan policies LP2, LP5, LP7 and LP24 are of particular relevance to this application in relation to design Chapters 11 and 12 of the NPPF also relevant. Paragraph 130 of the NPPF outlines criteria for assessment in respect to the design of new developments and states: 'Planning policies and decisions should ensure that developments:

- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change

- 9.46 In terms of local policy, Local Plan policy LP24 Design -sets policy guidance and criteria for assessing proposals and promotes good design by ensuring amongst other things :

- a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape;
- b. they provide a high standard of amenity for future and neighbouring occupiers;
- c. extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details and minimise impact on residential amenity of future and neighbouring occupiers;
- d. high levels of sustainability, to a degree proportionate to the proposal (set criteria)

- 9.47 The site is not allocated however, the site is identified as being within the Huddersfield Town Centre. Huddersfield Blueprint followed extensive public engagement. The plan aims to deliver five key objectives for Huddersfield Town Centre:

- A vibrant culture, art,
- leisure and nightlife offer,
- thriving businesses,
- a great place to live,
- improved access and enhanced public spaces

- 9.48 The 6 key areas within the Huddersfield Blueprint are Station Gateway, St Peter's, Kingsgate and King Street, New Street, the Civic Quarter and a new Cultural Heart in the Queensgate and Piazza area.
- 9.50 At pre-application stage the applicants submitted several documents including visual images of the scheme. Officers advised the applicants that the proposed massing along the Queensway ring road would provide suitably strong definition, although building heights would need to be assessed in relation to the settings of heritage assets and having regard to existing heights to the south and east. Additionally, officer's supported the removal of the large blank elevation opposite the Lawrence Batley Theatre which was welcomed, as it would enable greater appreciation of this cultural attraction and heritage asset, and related activities could spread out onto the steps/slope proposed opposite. The improved route from Queensgate to Ramsden Street was also welcomed
- 9.51 The applicants submitted a Townscape and Visual Impact Assessment (TVIA) to support the planning application. The main objectives of the TVIA are as follows:
- to identify, evaluate and describe the current landscape / townscape character of the site and its surroundings and also any notable landscape / townscape features within the site;
 - to determine the sensitivity of the landscape / townscape to the type of development proposed;
 - to identify potential visual receptors (i.e. people who would be able to see the development) and evaluate their sensitivity to the type of changes proposed;
 - to identify and describe any impacts of the development in so far as they affect the landscape / townscape and / or views of it and evaluate the magnitude of change due to these impacts;
 - to develop mitigation measures to avoid, reduce and compensate for landscape / townscape and visual impacts; and
 - to evaluate the relative significance of residual landscape / townscape and visual effects
- 9.52 The TVIR recognises the importance of the retention and appreciation of the ten large, ceramic artwork panels along the Market's eastern edge are designed by the Architect Fritz Steller who pioneered the production of large-scale ceramic art. These panels are set over natural stone cladding and represent - in abstract form - the 'mushroom' shells of the Market as well as the goods on sale. One public representation comments that the application seems to disregard the significance of the grade II listed staircase through ceramic panel 10 onto Queensgate. The form and geometry of the 1970 staircase was extraordinary with an apparently unsupported run. Additionally commenting that this highly sculptural form is unusual and spectacular – not just a utilitarian staircase that has carried many hundreds of people a day for 50 years.

- 9.53 Also of significance is the 'Castle Hill Setting Study'; 2nd August 2016; by Kirklees Council. This report refers to its views and relationship with the town centrethe most striking element of the view to the north is certainly the urban centre of the Huddersfield, which, while relatively compact, contains a number of tall buildings, both commercial and residential, as well as industrial features.
- 9.54 The applicants TVIA dissects the site into zones 1-4 and identifies changes to the character of the site itself range from major to moderate levels of effects, with effects varying across different zones within the site in terms of the magnitude of change. Changes to townscape character comprise alterations to height, scale, massing; style; legibility and public realm.
- 9.55 Officers concur with the conclusions of the TVIA and agree that the proposals will result in the total transformation of townscape character of some areas, while largely retaining - yet enhancing the existing character of other areas. In all cases, changes to townscape character confer decidedly beneficial effects across the site. Officers recognise the benefits of the scheme in terms of the following positive impacts upon townscape
- creation areas of large swathes of public realm
 - creation of a new civic square in the heart of the site
 - revealing heritage assets particularly listed buildings and their setting such as the adjacent Lawrence Batley theatre and Huddersfield Town Hall
 - restoring the previous strong connections between the conservation area to the west and the east of the site.
 - pedestrian accessibility
 - removal of buildings of generally poor design and condition which do not sit well against surrounding built form
- 9.56 Whilst the application has been supported with details of materials the precise tone of colour and texture of finish can be agreed by condition discharge stage involving sample boards on site.
- 9.57 The proposal is therefore considered to comply with the objectives of the of the Huddersfield Blueprint, the aspirations in terms of Chapter 12 of the NPPF and particularly paragraph 130. and Local and policy LP24.

Impacts upon Heritage Assets

- 9.58 Section sections 16(2) 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the council to have special regard to the desirability of preserving the nearby listed building, its setting and any features of special architectural or historic interest which it possesses and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. Furthermore, paragraphs 199 and 200 of the NPPF state that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be), and that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification. Local Plan policy LP35 states that development proposals affecting a designated heritage asset should preserve or enhance the significance of the asset and it mirrors paragraph

- 9.59 The applicants submitted Heritage Impact Assessment V2 in December 2022 which focussed on the changes proposed to the two listed buildings within the site, the Museum (former Library & Art Gallery) and the Food Hall & Library (Former Queensgate Market). The significance of each asset was considered in terms of *Historic Interest*, *Archaeological Interest* and *Architectural & Artistic interest*. The proposed works to the listed buildings are categorised within sections 2&3 of the relevant Heritage Impact Assessment as Removal, Intervention & Renewal:

Museum (former Library & Art Gallery)

- 9.60 The most significant visual change proposed for the existing library and art gallery building to form museum is the extension to the northern elevation. As part of the applicants' justification for the extension supporting documents states that the northern elevation of the library was not considered to be of aesthetic or architectural significance particularly when compared to the buildings other elevations. The scheme will accommodate the following spaces within the new extension.

- New public entrance to the north with café and shop
- New public facilities including accessible w/c, changing places facility and bike store
- New spaces design to support education and public engagement with museum collections
- New environmentally controlled exhibition spaces
- New plant & storage spaces to enable the building to operate to modern standards

- 9.61 The extension will be realised through multiple alterations to the listed building fabric. The maximum classification of harm caused by the alterations and extension proposed to the building has been considered by Historic England to be no greater than *less than substantial harm*.

Food Hall & Library (Former Queensgate Market)

- 9.62 The most significant visual change proposed for the Queensgate Market building to form food hall and library is the proposed demolition and removal of existing building fabric.

- Removal of Panopticon / Market Managers Office
- Removal of Market Stalls and Plinths
- Removal of self-contained shop units and arcade to the north edge of the market hall inclusive of the dividing wall onto which 'Commerce' is mounted
- Removal of shop units 1-27 and arcade that once linked Princess Alexandra Walk through the market into the carpark. Also offices at First Floor.
- Removal of shop units 177-188 at the west edge set below the pavement of Peel Street
- Removal of space beyond shop units 165-168 including former carpark entrance
- Removal of Basement Mezzanine – stall holders stores

- 9.63 As part of the applicants' justification for the proposed works the Heritage Impact Assessment states that the level of the harm is assessed as a consequence of the volume of proposed change which is most visually evident in the transformation of an introspective indoor market full of low-rise stalls to an open and accessible food hall. The assessment recognises that the works will not result in the complete loss of any

element of high heritage significance. Where loss of fabric has been proposed it has been balanced by design measures to first minimise and then mitigate the potential harm. However, the level of harm caused by the scope and scale of work required will be at the upper end of 'less than substantial' due to the extent and removal of the original fabric.

- 9.64 Historic England agreed the harm caused would be to be no greater than less than substantial harm, in their consultation response dated 11.11.22 below:

Given the transformative nature of the proposals, there are some elements that would cause harm to the significance of the listed buildings. This harm has been well understood by the applicants and contained within the "less than substantial" bracket

- 9.65 The applicants state that they engaged with statutory consultees, such as Historic England and the 20th Century Society prior to submission of the planning and listed building applications. Their responses to the planning and listed building applications are summarised in the consultee responses section of this report: Committee members can view their responses in full on the council's website at:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022%2f93248>

- 9.66 Historic England made comments on the scheme but had no objection to the applications on heritage grounds, stating that the issues and safeguards outlined in our advice need to be addressed in order for the applications to meet the requirements of paragraphs 199, 200 and 202 of the NPPF. The Twentieth Century Society (TCS) and Historic Buildings & Places raised some concerns particularly focussed on works to the Market Hall. TCS stated on 15th November 2022 -*We remain concerned about proposals to 'peel back' the market elevations to reveal the mushroom columns*

- 9.67 In terms of Huddersfield Civic Society, consultation response they objected on several grounds and commented on others. Their objections focused on viability and economic benefits, car parking provision and operation, the outdoor event space, accessibility for people with disabilities and cycle users, multi-modal access and cycle parking provision.

- 9.68 A series of amendments (listed in Negotiations section of the report) were made by applicants dated 2nd December 2022, following comments received during the ongoing statutory public consultation phase. A full re-consultation and further full publicity period was undertaken. No further concerns have been raised from any of the external heritage consultees above.

KC Conservation & Design officer's consultation response is below

Demolition:

- 9.69 Extensive demolition of late 20th century buildings is proposed, with the removal of the parade of shops on the east side of the Piazza, which were constructed in the 1980's, along with the modern shop units to the north of the library. These buildings have no historic significance and therefore the Conservation and Design Team has no objections to their demolition to enable the enhancement and redevelopment of a large part of the town centre. The removal of a substantial and rather blank elevation facing Queen Street will greatly enhance the setting of the Grade II* listed Lawrence

Batley Theatre, with extensive new landscaping providing an attractive open space connecting the Piazza with the wider town, in particular King Street and Queen Street.

- 9.70 The partial demolition of the parade of shops at the northern end of Queensgate Market is proposed and is supported. This parade was added to the market hall shortly after it was built and makes no contribution to the architectural interest or significance of the building. Demolishing it will provide an outdoor leisure and event space which is well connected to the food hall in the market building. Details are discussed within the listed building consent application 2022/93235. Demolition of the multi-storey car park at the southern end of the site has already been carried out.

Queensgate Market (Proposed Library and Food Hall)

- 9.71 The Conservation and Design Team supports this proposal, which is assessed in the listed building consent application 2022/93235.

Huddersfield Library and Art Gallery (Proposed Museum)

Following minor amendments to the design, and justification for the scale and detailing of the extension, the Conservation and Design Team supports this proposal which is assessed in more detail under the listed building consent application 2022/93234.

Gallery

- 9.72 A public gallery is proposed on the site of the parade of Piazza shops which backs onto Queen Street. This linear building extends along Queen Street, stopping short of the Lawrence Batley Theatre, where a wide set of steps leads down from the proposed urban park.
- 9.73 The building is constructed in natural stone with expanses of glazing and elements in dark metal (colour and details to be confirmed). The design of the gallery buildings follows the theme within the Piazza area, with natural stone and dark metal cladding, with the architectural detailing complementing the detailing on the Library and Art Gallery (museum) extension and providing a coherent development. A live frontage at street level on Queen Street brings interest to this elevation and is considered to be an enhancement to the existing building. We accept that the basement level service areas need to be retained with associated access requirements as this will minimise clutter at street level.
- 9.74 A taller gallery building is proposed on the corner of Queen Street and Queensgate. Having initially considered that this building had the potential to dominate the corner, the design has been further amended to break up the massing by introducing more fenestration facing the proposed steps. Colour and texture of final materials will also play an important role in providing a coherent element to the development as a whole. As the building is set back from the corner of Queen Street its impact on the setting of the listed terrace on the east side of Queen Street is kept to a minimum, with a large tree on the junction retained to soften and partially obscure the east elevation.
- 9.75 We have no objections to this proposal, subject to details of external materials being submitted for approval. We would suggest that the areas of dark metal are in a patinated bronze colour to provide continuity with the Library and Art Gallery (museum) building.

The Venue

- 9.76 The Venue is a substantial building which replaces the recently demolished multi-storey car park. A key consideration is the impact of this building on the setting of the listed Queensgate Market. Set directly adjacent to the ring road, it is considered that the site can accommodate a large well-designed and well-proportioned building. The scale of the building has been justified by the need to provide a large venue for indoor events along with undercroft car parking at the lower levels. The previous multi-storey car park set a precedent for a large-scale building on this site, and even before that the site was occupied by warehouses and college buildings which are likely to have been tall buildings. Located on a prominent corner plot and key gateway into the town centre, officers consider the Venue to make a strong and positive contemporary architectural contribution.
- 9.77 Initial queries regarding the scale of the building and the vertical emphasis of the external elevations, particularly facing Queensgate, to minimise any conflict with the horizontal emphasis of Queensgate Market and its parabolic mushrooms have been further explored and overcome resulting in some minor changes being made to the east elevation, with horizontal detailing following the line of the market building, glazing and external finishes at ring road level creating a live frontage which reduces the visual massing.
- 9.78 The predominant construction material in the immediate vicinity is natural stone. It is therefore important that any new material palette both respects and enhances the surrounding context and setting. This can be achieved by using contemporary design and materials and it is considered that securing high quality materials and finishes will significantly contribute to the overall success of the scheme. For this reason, it is imperative that parameters relating to material selection and colour finishes/textures are broadly outlined prior to determination. To this end, the applicant/architect has provided additional information regarding proposed materials and indicative colour swatches for each aspect of the scheme which are broadly accepted. However, such matters will need to be finalised and approved via the imposition of carefully worded conditions in order to secure the high quality of design and materials being tabled in this application and to avoid any potential future dilution of the scheme via amendments or resubmissions.

Landscaping

- 9.79 Demolition of the modern Piazza shop units will open up views across Queen Street and King Street, greatly improving the connectivity of this area with the historic town centre to the north and east. Views of the Grade II* listed Lawrence Batley Theatre will be significantly improved with the demolition of a substantial and relatively blank wall at the rear of the late 20th century Piazza development.
- 9.80 New steps from the Piazza to Queen Street and the university will provide greatly improved access to the wider town, and improved connectivity both visually and physically, with paths leading from the wider town to provide level access. The demolition of the shops at Queensgate Market will better reveal the significance of Huddersfield Town Hall and enhance its setting.
- 9.81 It is essential that the materials, boundary treatments, street furniture and planting are of a high quality and finish resulting in minimal clutter and a well-considered palette, with well-designed anti-social measures and a maintenance plan put in place. Again, it is recommended that a set of landscape parameters relating to materials and

finishes should be outlined and agreed prior to determination to secure the high quality of design and materials being tabled in this application and to avoid any potential future dilution of the scheme via amendments or resubmissions.

Conclusion

- 9.82 The Conservation and Design Team supports the Cultural Heart initiative, with the redevelopment of an area of the town which is currently under-used and which has great potential. A strong emphasis is placed on the restoration and viable reuses of Queensgate Market and Huddersfield Library and Art Gallery, with new links to the historic King Street, Queen Street and the wider town centre.
- 9.83 The demolition of modern retail buildings within the Piazza is supported as this will greatly enhance this part of the town and the setting of the listed buildings and conservation area, while creating a high-quality area for cultural and leisure uses. We welcome the proposed re-use of reclaimed materials, particularly the ashlar stone, from the demolition of the Piazza buildings.
- 9.84 We welcome the restoration and adaptation of the listed market and library building, with the repair and restoration of deteriorated elements, improvements to energy efficiency and accessibility, and new sustainable and new viable public uses. We understand that some major changes are proposed to these buildings to facilitate its future reuse. It is considered that the public benefits arising from such changes outweighs the minor harm arising and in tandem, other aspects of the scheme seek to ensure that the overall character of both buildings is maintained, with architectural elements restored, enhanced and its significance better revealed.
- 9.85 It is acknowledged that some elements of the proposal, including the changes referred to above and the construction of substantial buildings, cause less than substantial harm to the heritage assets within and surrounding the site. Negotiations have taken place to reduce/limit the harm and minor amendments have been made in line with comments by the Conservation and Design Team, with clear justification submitted where changes would impact on the function of the buildings and internal space.
- 9.86 This harm is clearly outweighed by the substantial public benefits, with the redevelopment of an underused part of town and creation of a cultural area for public use, the enhancement of a significant space within the town, and the restoration, enhancement and active re-use of Queensgate Market and Huddersfield Library and Art Gallery.
- 9.87 In conclusion, we have no objections to the scheme, but in order to secure the high quality of design and finish proposed, it is recommended that the following conditions and those attached to the associated listed building consent applications are imposed.

Recommended conditions

- 9.88 If the application is supported, we recommend the following conditions (the wording of conditions to be drafted and agreed between the parties but should include the following as standard):
- Details of all external materials for all new construction to be submitted for approval. Including samples of ceramic cladding and facing materials for the Venue, all new building stone and cladding, bronze cladding for the west bay of the Library and Art Gallery, access ramp details and materials, window frame

details. These are required to ensure a high-quality external finish and colour to the buildings.

- Landscaping details, materials, street furniture design, anti-social behaviour measures, a landscape strategy and a maintenance plan.
- External lighting strategy including specification details of lighting proposed, particularly for The Venue and Gallery.

9.89 Officers have considered the proposals and consultation responses from statutory and non-statutory consultees and local and national policies, including guidance within the NPPG. Heritage consultees advise that the level of harm caused by the development is less than substantial harm. Key paragraph 202 of the NPPF states as follows:

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

9.90 The National Planning Practice Guide (NPPG) defines what is meant by the term public benefits and Paragraph: 019 Reference ID: 18a-019-20190723 states that public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives as described in the National Planning Policy Framework (paragraph 8). Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit. Officers consider that the public benefits of the scheme would include but not restricted to the following that are included (pages 42-50) within the applicants planning Statement

- Support up to 924 temporary jobs on and off-site during the 3-year build phase.
- Contribution of construction phase to economic output: £148million (estimated) of gross value added (GVA) could be generated during the 3-year construction period in current prices
- Support up to 459 gross full-time equivalent jobs on-site once operational.
- The sites falls within two LSOA's, which are in the top 10% and 30% deprived in the England.
- The additional GVA attributable to the site once operational and fully occupied is at £10.2million per annum (estimated)
- The securing of the long-term future of the Library and Art Gallery, as a museum, through a viable re-use and inclusion of energy efficiency measures that shall ensure the continuation of its accessibility to the public.
- The securing of the long-term future of the Queensgate Market, as a library and food hall, through a viable re-use and inclusion of energy efficiency measures that shall ensure the continuation of its accessibility to the public.
- Enhancement to the Huddersfield Town Centre Conservation Area

- Social value: It is estimated that the Proposed Development will generate £10.5 million in social value from the museum, gallery,
- Visitor Spend: It is estimated that spend from day visits and overnight visits to the scheme will be around £18.1 million.
- Creation of a multifunctional town centre
- A reinvigorated town, including evening offer, across 365 days a year, both indoors and outdoors
- Greatly enhanced community facilities
- Achievement of c55% BNG
- Improved health and well-being.

9.91 Officers consider that the substantial benefits (some of which are listed above) are more than sufficient to outweigh the less than substantial harm caused by the scheme. Consequently, officers consider that the proposal complies with Policy LP35 Kirklees Local Plan, sections 16(2), 66(1) and 72(1) and of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paragraphs 199 200 and Paragraphs 202 of the NPPF.

Access Highways and Sustainable travel

9.92 Local Plan policies LP5, LP19, LP20, LP22, LP23, LP24 are relevant to the scheme. Policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development will normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe. Kirklees Highway Design Guide SPD is relevant to parts of the scheme.

9.93 Paragraph 110 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 111 of the NPPF adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.

9.94 A Transport Assessment and Travel Plan were submitted to support the application and separate Highways Chapter is provided within the ES. Highways DM officers have assessed the proposal and have provided a consultation response dated 23/02/23, the main points are set out below:

Accessibility:

The site has been considered in relation to its level of accessibility

Buses: Huddersfield bus station located at Upperhead Row / Market Street is approximately 350m (5-minute walk) west of the KCH site, providing access to a significant number of local and regional Services.

Rail: Huddersfield Rail Station is located to the northwest of the town centre at St George's Square, approximately 500m (8-minute walk) northwest of the KCH site. This provides access to a range of local, regional and national rail services, including frequent services to Leeds, Manchester, Hull, Sheffield, Newcastle, Liverpool and Bradford.

Pedestrian: Pedestrian infrastructure in the vicinity of the proposed development is generally of a high quality. Well-lit, wide footways are provided with a range of crossing provision including dropped kerbs at town centre junctions and pedestrian crossing at traffic signal control junctions. To the south-east of the site, three signalised crossings are provided over the ring road. At the Alfred Street, Queen Street and Zetland Street junctions, the proposed new site access to the multi-storey car park (MSCP) will also incorporate pedestrian crossing facilities. In the vicinity of the site, New Street, King Street and Victoria Lane are all pedestrianised, with limited, service vehicle access.

Cycling: Recommended signed and advisory cycle routes are identified in the Huddersfield Cycle Map, that provide good cycle access within the town.

Vehicular access

The proposed Venue and MSCP are located to the south of the site bounded by Alfred Street to the west and the A62 Queensgate to the south and east. It is proposed to access the MSCP from a new access junction on A62 Queensgate, the new access replacing the former Markets car park accesses from Alfred Street and the subway from Queen Street South.

The new access takes the form of a signal-controlled junction located to the north-east of the car park, entering the car park at Lower Ground level. The junction incorporates a right turn lane in for traffic accessing from the north and a left turn lane in for traffic accessing from the south, maintaining the current two through-lanes on the Ring Road in both directions. The proposals provide a left-turn only lane out of the car park, which is combined with the service tunnel exit route. The junction incorporates pedestrian crossing facilities, replacing the existing staggered-crossing across the A62 Queensgate with a straight-across crossing providing improved crossing provisions for pedestrians and cyclists. The proposed access arrangements are considered acceptable in principle, subject detailed Highway Design comments and submission of an independent Stage 1 RSA and Designer's Response.

Service Vehicle Access

In terms of service vehicle access and servicing arrangements the KCH will use the existing retained Lower Ground level tunnels, accessed/egressed from existing points of access on A62 Queensgate and Queen Street. Separate service areas are provided in the tunnels for each building with lift access between the tunnels and buildings. It is proposed to manage service vehicle access to restrict service vehicle movements at peak times when cars are entering and leaving the car park. No specific details have been provided at this stage, HDM are satisfied that this can be conditioned and a condition requiring submission of a site wide Service Management Plan is proposed.

In addition, to the retained service tunnels a new service vehicle layby is to be provided on Alfred Street to enable direct access to the Venue for service vehicles involved in set up and take down of some events. The layby is 40m in length enabling access for up to two large articulated HGVs.

Taxis:

A new taxi rank was proposed on Ramsden Street immediately south-west of the Museum utilising an existing parking bay. On further investigation it has been confirmed that the TRO covering this parking bay permits loading only between 6am – 10am and 4pm – 8pm, disabled badge holder only parking between 10am – 4pm and taxis between 8pm – 6am. Local businesses have advised that they require this layby for loading. As the highway authority we would not wish to see the loss of disabled parking bays in the town centre. HDM are of the view that the layby should be retained with its current restrictions, taxis being able to use the layby between 8pm – 6am.

Car Parking:

The proposed MSCP provides a total of 350 car parking spaces across three levels, including 35 accessible spaces (10%) and 70 spaces with access to electric vehicle charging points (20%). Parking for motorcycles is also provided. The 350 parking spaces within the KCH scheme provides sufficient parking to accommodate weekday daytime events, however, for peak events on evenings and weekends at the Venue the KCH MSCP will not be sufficient and additional town centre parking will be required to accommodate parking demand

Car Parking Demand:

A parking accumulation exercise was undertaken using the forecast vehicle trip generation to determine total car parking demand for the different peak scenarios, as follows:

- Weekday Daytime Peak - comprising Museum, Art Gallery, Library and Food Hall demand and a Business/Conference event at the Venue. The peak car parking demand is 250 spaces with maximum demand between 12:00-16:00hrs.
- Weekday Evening Peak - comprising Museum, Art Gallery, Library and Food Hall demand and a maximum capacity Music event at the Venue. The peak car park demand is 520 with maximum demand between 19:00-22:00hrs.

- Saturday Daytime Peak - comprising Museum, Art Gallery, Library and Food Hall demand and an Exhibition/Consumer event at the Venue as well as the regular small-scale activities at the Outdoor Event Space. The peak car park demand is 600 with maximum demand between 11:00-15:00hrs. The Saturday evening peak is similar to the Saturday daytime peak, the Exhibition/Consumer event being replaced by a maximum capacity Music event, with maximum demand between 19:00-22:00hrs.

The assessment does not present the car parking associated with Large Scale events at the Outdoor Event Space, on a weekend daytime or evening. Car parking demand for these larger scale events is approx. 480 parking spaces, which is similar to the maximum demand for peak evening and weekend events at the Venue. Ideally programming of events at the Venue and Outdoor Event Space will be required to avoid peak events at both locations at the same time. An Events Management Plan is proposed to coordinate the programming of events and minimise conflict of these potential peak events. In the unlikely event that events are scheduled at the same time, the Events Management Plan would identify additional off-site parking and the implementation of temporary signing and traffic management to advise drivers where to park and how to access the events. A condition requiring submission of an Events Management Plan is proposed

Car Parking Assessment:

A review of town centre parking was undertaken to determine the future available parking to serve the KCH scheme. Thirteen car parks were identified that could potentially provide parking to serve the KCH development. Four of these car parks are due to close as a result of redevelopment, to account for existing users of these car parks relocating to different car parks, the occupancy of these car parks has been taken from the total forecast available spaces.

The assessment indicates that on a weekday during the peak occupancy period approximately 11:00-15:00hrs, there are forecast to be 109 spaces available across the town centre car parks. The majority of spaces available are located in the Kingsgate Shopping Centre car park and at the Bus Station.

The assessment indicates that on a weekday evening after 18:00hrs, there are forecast to be 756 spaces available across the town centre car parks. This excludes the Kingsgate shopping centre which closes at 18:30hrs and the Leisure complex which restricts public parking after 18:00hrs to be only available for complex visitors. The majority of spaces available are located in Springwood car park and at the Bus Station.

The assessment indicates that on a Saturday during the peak occupancy period approximately 10:00-16:00hrs, there are forecast to be 565 spaces available across the town centre car parks. The majority of spaces available are located in the Kingsgate Shopping Centre car park, Springwood car park and at the Bus Station.

It should be noted that for robustness the car park assessment does not consider on-street parking. It is likely that there will be on-street parking available within a short walk (areas to south and east of the ring road), particularly on evenings and weekends, which could accommodate some of the KCH scheme parking demand.

The car parking assessment demonstrates that the new KCH car park will provide sufficient parking to accommodate weekday daytime events, however for peak events on evenings and weekends at the Venue the KCH MSCP will not be sufficient and additional town centre parking will be required to accommodate parking demand. The parking assessment considers available car parking across the town centre and demonstrates that the forecast KCH scheme parking peak demand can be accommodated. There is a range of parking available across the town centre including on and off- street parking which will give drivers a good choice in terms of location and cost.

Traffic Impact/Network Assessment:

The scope of the Transport Assessment (TA) was agreed during pre-application discussions and is based on current guidance and industry standard methodology

The proposals comprise of a new venue, museum and food hall and retains and relocates the existing art gallery and library within the scheme. The scheme comprises:

Museum = 5,726sqm GIA

Art Gallery = 2,993sqm GIA

Library (& Archive) = 4,784sqm GIA

Venue = 7,705sqm GIA / 2,200-person maximum capacity

Food Hall = 2,379sqm GIA

Multi-Storey Car Park (MSCP) – 350 spaces

Public Realm – flexible, inclusive, safe, green character, able to host up to 3,000-person event. For each proposed land use within the KCH scheme a trip generation exercise has been undertaken to determine forecast vehicle trips and cumulative parking demand for 'Weekday' and a 'Saturday' scenario.

A local highway network model has been developed using TRANSYT software to assess the development's impact on the local highway network. The model covers the south-eastern part of the ring road between Shorehead Roundabout (located to the north-east) and the A62 Manchester Road / Outcote Bank traffic signal-controlled junction (located to the southwest), and includes the following junctions:

- Queensgate/Zetland Street
- Queensgate/Queen Street
- Queensgate/Alfred Street
- Queensgate/Chapel Hill

Classified turning counts at all junctions within the model extents were undertaken on Thursday 23rd June 2022 (AM 07:00-10:00hrs, PM 16:00-22:00hrs) and Saturday 25th June 2022 (11:00-14:00hrs). In addition, classified link flows were collected on A62 Queensgate from Tuesday 21st June to Monday 4th July inclusive to provide 24 hourly flows through this period.

A review of the traffic data identified the AM and PM weekday peak periods and the Saturday peak periods and confirms the network peak periods as weekday AM 08:00-09:00hrs, PM 16:00-18:00hrs and Saturday 12:00-15:00hrs.

Data from the traffic surveys and trip generation exercise has been input into the model to determine the impact of the development on the highway network, i.e. Do Something scenario (including the development proposals) against the Do Minimum scenario (highway network should the development proposals not come forward).

TRANSYT calculates the Degree of Saturation (DoS) and Mean Maximum Queue (MMQ) for each approach to a junction (or link). The DoS indicates the performance of the junction under a given set of traffic flow conditions.

Assessment is based on a base year of 2022 with a future design year of 2027. 2027 base traffic flows are derived using Locally adjusted traffic growth factors from the National Trip End Model (NTEM/Tempro) data set. The following periods have been assessed:

- Weekday AM Peak (08:00 – 09:00) and PM Peak (17:00 – 18:00) Hours – this period accounts for the forecast arrival and departure trips associated with the conference / business events in addition to the peak background traffic flows. Whilst the PM peak hour for the background traffic flow occurs in the preceding hour, when combining the development flows, the 17:00 – 18:00 hrs period shows the greatest flow.
- Evening event peak 18:00-19:00hrs – this period accounts for the arrival trips for events at the venue. Although the combined flows for the preceding hour are higher and is being assessed as the PM peak hour, for robustness the assessment of this hour was also requested by the Local Highway authority.
- Saturday peak hour 12:00 – 13:00 hrs – this period accounts for development activities throughout the day combined with high background traffic flow.

Initial results of the assessment show the network to perform within theoretical practical capacity during all the modelled peak hours. Comparing the results for the Do Something scenario (including the development proposals) against the Do Minimum scenario (highway network should the development proposals not come forward) shows the development to have a marginal impact on network performance. Slight increases in DoS and mean max queues are forecast at most junctions however do not surpass the threshold for practical capacity. Based on this assessment it is considered that the impact of the KCH development proposals can be satisfactorily accommodated within the existing highway network and that the development's impact would not have a significant impact on the operation or safety of the highway network.

The new MSCP access junction is shown to perform well within practical capacity for all peak hours whilst maintaining the flow along the A62 approaches to the junction. Notwithstanding, the operation and performance of the MSCP access will be influenced by the access control system, i.e., how quickly and efficiently vehicles can enter and exit the car park. Specific details of the system proposed have not been submitted at this stage and a condition requiring details of the access control system is proposed. Note, the TRANSYT model is currently being reviewed and validated by UTMIC and final confirmation of the acceptability of the modelling and results is awaited.

Road Safety:

A review of personal injury accident data has been undertaken using DfT information for the latest available five-year period (verified data up to 2021) for the agreed accident study area. The results of the analysis indicate that a total of 22 accidents have occurred in the study area in the latest five-year period, three of which resulted in serious injury (two in 2019 and one in 2020) all others resulting in slight injuries.

The findings of the highway safety review have not identified any significant highway safety issues in the vicinity of the site that raised concerns. There are some clusters of accidents at junctions, as would be expected, but in general the number of accidents over a five-year period is considered low. It is considered that there are no significant road safety issues on the local highway network that are likely to be materially exacerbated by the development proposals.

Planning Conditions:

- Construction Environmental Management Plan (CEMP)
- Events Management Plan
- Service Management Plan
- Full Travel Plan
- Signing/Wayfinding Strategy
- Highway Works – construction of new signalised access from A62 Queensgate to MSCP
- Highway Works – construction of new

Waste

- 9.95 Local Plan Policy LP43-Waste management hierarchy states that the council will encourage and support the minimisation of waste production, and support the re-use and recovery of waste materials
- 9.96 The proposed development is required to comply with a range of waste legislation, policy, standards and specifications including Kirklees Council Waste Management Design Guide for New Development
- 9.97 The applicants submitted Construction and Operational Waste Strategy to document details the construction Site Waste Management Plan (SWMP) and operational waste strategy for the project.
- 9.98 Kirklees Streetscene Officers were consulted and commented as follows: The proposed redevelopment does not include residential properties and therefore the Waste Collection Authority does not have a duty to collect waste from the site unless requested to do so. The WCA does want to ensure any new developments have appropriate waste storage capacity on site for a range of source separated wastes and to maximise recycling and efficient collection

Flood Risk & Drainage

- 9.99 The requirements of chapter 14 of the NPPF, and Local Plan policies LP27, LP28 and LP29, apply to the scheme. Paragraph 167 sets out that local planning authorities should ensure that flood risk is not increased elsewhere. Paragraph 168 of the NPPF establishes that new development is planned to avoid areas at risk of flooding and takes account of climate change
- 9.100 Policy LP27 requires proposals to be supported by an appropriate site specific Flood Risk Assessment in line with national planning policy taking into account of all sources of flooding set out in the Strategic Flood Risk Assessment and demonstrate that the

proposal will be safe throughout the lifetime of the development (taking account of climate change), without increasing flood risk elsewhere.

- 9.101 Policy LP28 gives a presumption that Sustainable Drainage Systems (SuDS) will be used to assist in achieving typical greenfield run-off rates should not be exceeded on greenfield sites, whereas proposals on brownfield sites there should be a minimum 30% reduction in surface water run-off where previous positive surface water connections from the site can be proven.

New connections will be subject to at least greenfield restrictions;

- 9.102 The planning application is accompanied by a Flood Risk Assessment and Drainage Statement. The site falls in Flood Zone 1 (low probability of flooding) on the Environment Agency maps and the proposals are considered to be 'More Vulnerable' in terms of flood vulnerability, which is considered to be appropriate development in Flood Zone 1. There is a surface water flooding risk present on site, particularly given changing levels of the site. The lower-level areas outside of the existing Library and Piazza Shopping Centre are the main areas highlighted to have a 'high' risk of surface water flooding. High risk is defined as an area that has a chance of flooding of greater than 3.3% each year.

- 9.103 The Lead Local Flood Authority (LLFA) were consulted accept of the following as indicated in the Drainage Statement document and Proposed Drainage Strategy drawing:

- proposed climate change allowance of 40%
- allowable surface water discharge rate of 195 l/s (based on 30% betterment of existing surface water run-off rate of 278 l/s equal to the current run-off from 2.0 ha) for the critical 1 in 100 year (plus climate change) rainfall event
- proposed discharge attenuated surface water run-off into the existing (or diverted) YW Combined sewers crossing or adjacent to the site.

LLFA raise no objections subject to conditions

Biodiversity & Trees

Biodiversity

- 9.104 Chapter 15 of the NPPF and Local Plan policy LP30 are relevant as the council will protect and enhance the biodiversity and geodiversity of Kirklees. Of note, paragraph 174 of the NPPF requires the proposed development to achieve a biodiversity net gain. The council's Biodiversity Net Gain Technical Advice Note (June 2021) sets out the council's approach to DEFRA Biodiversity Metric as a means of calculating losses and gains resulting from a proposed development, or other land use changes. A minimum of 10% net gain in biodiversity is required. A net gain of 10% is the proportion of increase proposed by central government, following the implementation of the Environment Act (2021).
- 9.105 An Ecological Survey Report and Biodiversity Net Gain Assessment have been submitted with the application. The Biodiversity Net Gain (BNG) Assessment submitted with the report results in a post-development total of 3.61 Habitat Units (combining baseline units retained and habitat units delivered). This equates to a gain of 55.68% against the baseline. This is welcomed and ensures the development proposals will come forward in line with national and local planning policy. The level of BNG can be secured through an appropriately worded condition, which will allow a management plan to cover a period of 30 years.

- 9.106 KC Ecology advises that the Ecology officers have no objection to this application subject to conditions requiring an Ecological Design Strategy (EDS) and the submission of a construction environmental management plan (CEMP: Biodiversity). Subject to these requirements officers consider that the proposal complies with Chapter 15 of the NPPF and policy LP30 of the Kirklees Local Plan.

Trees

- 9.107 Local Plan policy LP33 states that planning permission will not be granted for developments which directly or indirectly threaten trees or woodlands of significant amenity, and proposals should normally retain any valuable or important trees where they make a contribution to public amenity or have other benefits.
- 9.108 The applicants submitted an Arboricultural Impact Assessment that provided the advice on all relevant trees on the application site assessed present at implications for the existing trees on the site following a site survey. Each tree was assessed in accordance with BS 5837: 2012. The tree survey revealed a total of thirty-eight individual trees. Of these, three trees were identified as retention category 'B', thirty-four trees were identified as retention category 'C' and one tree was identified as retention category 'U'. There were no retention category 'A' trees identified.

It is noted that representations from members of the public have objected to the removal of trees

- 9.109 The councils tree officer has assessed the scheme and commented as follows:

The proposals have retained two significant trees at the entrance to the site from Queensgate. The retention of these trees will help frame the proposed site entrance and create a striking feature. Their retention will require careful management of construction work and the details of tree protection provided would enable their retention but should include a greater area of protection during the early stages of the construction to ensure the canopy and roots are protected. A revised tree protection plan should be provided to ensure

A number of smaller trees adjacent to the existing library are also proposed to be retained. The Arboricultural Impact Assessment identifies that twenty-seven trees in total will need to be removed to facilitate the proposals, including most trees along Queensgate and Queens Street. The details of the landscaping scheme will need to demonstrate sufficient tree planting to not only replace the trees lost but also to enhance this area.

At present I would be happy to support the proposals in principle but would request that landscaping details and an updated tree protection plan be provided either prior to a decision or as part of pre-commencement conditions.

- 9.110 Subject to these requirements officers consider that the proposal complies with Chapter 15 of the NPPF and policy LP33 of the Kirklees Local Plan.

Sustainability & Climate Change

National and Local Policy

- 9.111 As set out at paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF goes on to provide commentary on the environmental, social and economic aspects of sustainable development, all of which are relevant to planning decisions
- 9.112 The council approved a Planning Applications Climate Change Guidance document which advises applicants to submit a Climate Change Statement with all applications. Effectively, the applicant had already done this – a Sustainability Statement was submitted with the current application, and the applicant has referred to sustainability and climate change in other submission documents, which is welcomed.
- 9.113 The applicant's sustainability Statement recognises the council's commitment to work towards achieving net zero carbon in response to the council declaring a climate emergency
- 9.114 This statement includes a summary for sustainability across the development:

Public realm - The public realm will support the ecological improvements of the scheme in addition to providing resilience to flood risk and changes to our climate. The team are reviewing what the likely health and air quality benefits the soft landscape offer as well as reviewing planting options and the carbon sequestration potential of the scheme. The public realm will also offer a space to users of all abilities and be an inclusive place for all.

Transport - The buildings and public realm will offer best practice facilities for the use of sustainable modes of transport such as bicycles. The site will also offer a new link for pedestrians and cycle users.

Materials and character - The design team have set ambitious embodied carbon targets for the scheme and are undertaking a technical review of what materials and components can be feasibly reused in support of best practice circular economy principles. Timber structures and low carbon cladding materials are being investigated prioritised where feasible permitted as a means to reduce the inherent embodied impact of the scheme.

Museum - The grade two listed building will be retained and refurbished to ensure the building's energy consumption is dramatically reduced relative to current operational use. The heating systems will be replaced in support of low carbon technologies to generate heat and domestic hot water. Brand new and efficient building services will be installed to ensure the internal comfort of occupants is maintained, in addition to ensuring the correct conditions for exhibited pieces and installations.

Food Hall - The food hall will undertake a sympathetic low energy retrofit to ensure that the listed features are upgraded without compromising their heritage importance. The food hall will allow users to enjoy the refurbished space comfortably during all seasons.

Library – The library will undergo a major low energy refurbishment of areas of the existing Queensgate Market with an extension which is sympathetic to the existing features of historical and heritage importance. The design team is working to find the balance between replacement and improvement with the retention of existing elements in line with best practice energy efficiency, embodied carbon and circular economy principles.

Gallery - The new gallery building will look to achieve exemplary levels of energy efficiency and has been designed to be a low embodied carbon building. This has been achieved through the process of structural rationalisation and investigating the use of mass timber structure in appropriate areas.

Venue - the venue will look to be built to high energy efficiency standards and has been designed to reduce energy demand during peak operations and low occupancy when not in use. The venue will also look to deploy a large and efficient PV array to maximise the roof area to generate renewable energy for the building.

MSCP/ Parking - to encourage low carbon modes of transport, 20% of car parking spaces will support electric car charging, with some of these spaces being rapid charging points. The remaining 80% of spaces will have passive provision for future installation of Electric car charging points. This allows for the adoption of new and innovative charging technologies which are emerging and avoids locking in redundant services

- 9.115 Officers consider that in light of the above and other specifications set out in the supporting documents it is considered that the proposal can be regarded as sustainable development. A condition is recommended requiring the provisions of the Sustainability Statement to be implemented (and thereafter retained), along with a Post Construction Report to demonstrate they have been achieved

Residential Amenity

- 9.116 In terms of potentially impact upon residential amenity, and public health, particularly for users of the site and development, NPPF Chapters 8 -Promoting Healthy and Safe Communities and 12- Achieving Well Designed Places, are relevant. Similarly, local plan policies LP51, LP52 and LP53.
- 9.117 There are existing residential properties close to the site and planning permissions have been granted for residential development including conversions of existing buildings close to the site. The Strategic Planning Committee specifically made comments that the applicants should consider these residents when finalising their plans for planning application submission. Kirklees Council's Pollution Control team have considered the submission and provided a summary on the main issues below:
- 9.118 KC Environmental Health (Pollution & Noise Control) were consulted and responded on 28/10/22 and 23/01/23

Air Quality

- 9.119 The site is located within Kirklees Councils Air Quality Management Area (AQMA) No.9 which encompasses Huddersfield Town Centre and was declared due to exceedances of the annual mean air quality objective for nitrogen dioxide (NO₂). An Air Quality Assessment has been undertaken
- 9.120 A qualitative assessment of construction phase impacts associated with fugitive dust emissions was undertaken. The guidance considers the potential for dust emissions from dust-generating activities. A risk assessment was undertaken to identify all sources of dust and the dust emission magnitude of the construction phase.

- 9.121 A damage cost calculation has been undertaken. This is to determine the amount (value) of mitigation required to offset the detrimental impact that the development will have on air quality. This calculation provides a five-year exposure value to the sum of £667,251.
- 9.122 Officer's accept the various embedded mitigation measures that are to be implemented across the development is over and above what would normally be expected to off-set the impact that the development will have on air quality. Officers recommend a Dust Management Plan to control fugitive dust emissions during the construction phase is included within the site-specific Construction Environmental Management Plan.
- 9.123 Construction Traffic can be scoped out of any further assessment provided that the Construction Management Plan limits the number of HGV movements to less than 25 movements per day. Officer Concerns regarding the impact that the car park vents will have on pedestrians queuing to enter the Venue. Officer's require further modelling to determine the 1-hour mean NO₂ concentrations, at both of the car park vents. This should include the background concentrations and other sources. We would also ask that receptors are modelled to a height of 0.5m, to determine the impact of the emissions from the vents on children queuing at the Venue.
- 9.124 With regards to Electric vehicle charging points, the car park is to be provided with 70 electric vehicle charging points which equates to 20% charging from day one and the remaining 80% of spaces will have passive provision for future installation of electric car charging points to enable 100% in the future. condition requiring a scheme to be submitted regarding the Electric Vehicle Charging Points

Contaminated Land:

- 9.125 The technical note summarises the several potential sources of contamination including contaminated made ground, contaminated perched and shallow water, infilled land and mine workings. In addition, several potential pollutant linkages are identified. An Intrusive investigation is necessary given the potential contamination identified in the reports submitted. Therefore, we accept the Phase 1 Geoenvironmental Report by AECOM, dated 23rd January 2020 (ref: 60613541) and the Geotechnical and Geoenvironmental Technical Note (P02) by Arup Limited, dated 26 September 2022
- 9.126 Officers have no objection to the application subject to the necessary contamination land conditions being applied to any permission granted.
- 9.127 The applicants have submitted the following Noise Impact Assessments that identify the nearest noise sensitive receptors. The submitted reports are accepted but further information will be required once design details have been finalised. Officers look to the applicant to control and where necessary, mitigating noise from the following:
- Mechanical Plant Noise
 - Noise Breaking into Residential Properties
 - Noise Breaking into Hotel Rooms
 - Entertainment Noise

- 9.128 Applicants must comply with officers' requirements and will need to be stated in order to ensure there is no loss of amenity to neighbouring properties. The submitted reports are accepted but further information will be required once design details have been finalised. A condition is therefore necessary.

Artificial Lighting

- 9.129 Public Realm Lighting Strategy by Arup (ref: CDT430201-ARP ZZ-ZZ-RP-YL-00002), dated 30th Sept 2022, has been submitted. Officer's accept the lighting strategy and therefore recommend a condition to secure the mitigation as detailed in the accepted report.

9.130 Construction Environment Management Plan

Although the Environmental Statement lists the general mitigation for dust control from the IAQM guidance, this does not constitute a site-specific Construction Environmental Management Plan. It also does not adequately address the possible loss of amenity from noise during construction. Officers therefore recommend a condition requiring a site-specific Construction Environmental Management Plan.

- 9.131 Environmental Health Officers have no objection subject to several conditions relating to Air Quality, Noise, contaminated land, lighting, odours and construction phase. Given the advice from Environmental Health Officers it is considered that the proposal complies with policies LP51, LP52 and LP53 of the Local Plan.

Security & Designing out Crime

- 9.132 121NPPF chapter 8 Promoting Healthy and Safe Communities and Chapter 12 Achieving Well Designed Places alongside S17 Crime and Disorder Act 1998 establish the policy framework for consideration of this issue. Local Policy LP24 requires that good design should be at the core of all proposals in the district. Part e.) the risk of crime is minimised by enhanced security, and the promotion of well-defined routes, overlooked streets and places, high levels of activity, and well-designed security features

- 9.133 It is recognised that an objective of the Kirklees Cultural Heart is to create a safe, welcoming, and family friendly environment and it is noted that forthcoming legislation in the form of Martyn's Law (Protect and Prepare) has been considered given the creation and enhancement of public spaces. The council receives advice from West Yorkshire Police's Designing Out Crime Officer. West Yorkshire Police and the NE Counter Terrorism Unit have been engaged in discussions with the applicants in relation to the different elements of the development for public safety around landscaping and for the materials of the buildings.

CONCLUSION

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

- 10.2 The application site is unallocated in the Kirklees Local Plan within the defined Huddersfield Town Centre boundary. The development combines the retention and re-use of key civic buildings and the creation of a multi-functional, high-quality destination. Whilst some demolition of existing building stock is required the application justifies the design process followed to mitigate the extent of harm to key heritage assets. The development retains and enhances the key elements of the town centre environment, enabling the remodelling and revealing of open views over spacious leafy and useable areas of public realm.
- 10.3 In terms of the local impact, the issues of amenity of residents, loss of trees, highways and drainage amongst others, have been considered and found not to be unduly harmed whilst providing a significant increase in on site biodiversity net gain (55%)
- 10.4 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval, subject to conditions and planning obligations to be secured via a Section 111 agreement.

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.

Timeframe and phasing

- 5 year time frame to commence development
- Development build in accordance with Plans
- Submission of a Phasing Plan

Heritage

- Details of all external materials for all new construction Including samples of ceramic cladding and facing materials for sensitive locations
- Landscaping details, materials, street furniture design, anti-social behaviour measures, a landscape strategy and a maintenance plan.
- External lighting strategy and specifications in sensitive locations

Highways

- Construction Environmental Management Plan (CEMP)
- Events Management Plan
- Service Management Plan
- Full Travel Plan
- Signing/Wayfinding Strategy
- Highway Works – construction of new signalised access from A62 Queensgate to MSCP
- Highway Works – construction of new service layby on Alfred Street
- Multistorey Car Park (MSCP) Access Control System

Highway Structures

- New retaining walls
- Surface water attenuation tanks

Environmental Health

- Air Quality Impact Assessment
- Electric Vehicle Charging Points
- Implement agreed Kitchen Extract Scheme
- Submission of a Phase 2 Intrusive Site Investigation Report
- Submission of Remediation Strategy (cont. land)
- Implementation of the Remediation Strategy (cont. land)
- Submission of Verification Report (cont. land)
- Noise Report required for proposed noise generating use
- Noise from Fixed Plant & Equipment
- Entertainment Noise Inaudibility
- Installation of the Agreed External Artificial Lighting
- Construction Environmental Management Plan

Drainage

- Drainage Details (scheme detailing foul, surface water and land drainage)
- Overland Flow Routing
- Construction Phase Surface Water Flood Risk and Pollution prevention plan.
- Ecology
- Ecological Design Strategy (EDS) and the
- Construction environmental management plan (CEMP: Biodiversity).

Ecology

Ecological Design Strategy (EDS)

Construction environmental management plan (CEMP: Biodiversity)

Coal Authority

Intrusive site investigations

Declaration prepared by a suitably competent person

Others

- Sustainability- provisions of the Climate Change Statement to be implemented (and thereafter retained), along with a Post Construction Report
- Details of waste collection provision
- Tree protection plan
- Landscape / tree planting details

Certificate Of Ownership - Certificate D (Shared Ownership - all other owners unknown)

Signed

[Planning application details | Kirklees Council](#)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022%2f93248>

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Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 02-Mar-2023

Subject: Planning Application 2021/94208 Outline application for re-development of former waste water treatment works, including demolition of existing structures to provide employment uses (Use Classes E(g)(ii); E(g)(iii); B2 and B8) Former North Bierley Waste Water Treatment Works, Cliff Hollins Lane, Oakenshaw, BD12 7ET

APPLICANT
KEYLAND
DEVELOPMENTS LTD

DATE VALID
09-NOV-2021

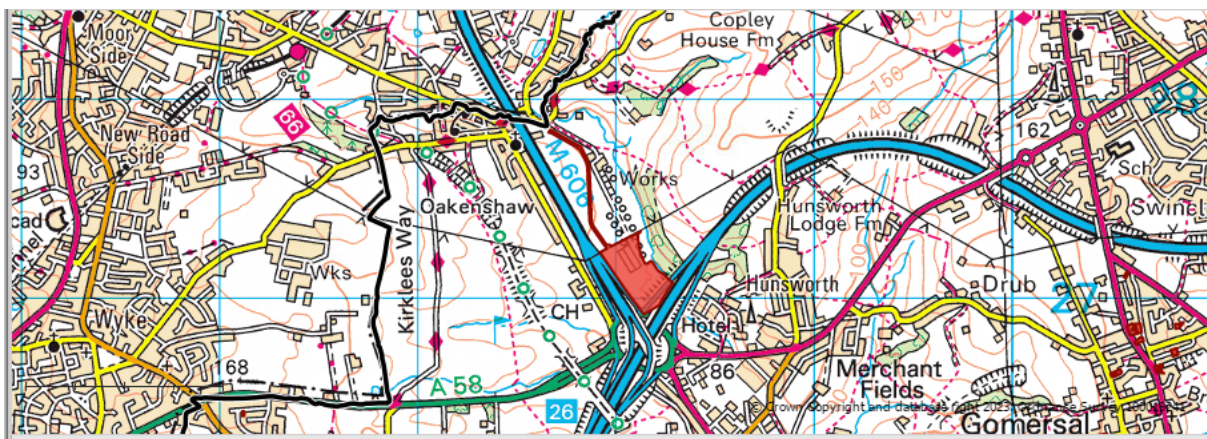
TARGET DATE
08-FEB-2022

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: Cleckheaton

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION

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

1. Traffic monitoring and £30,000 (£15,000 x 2) towards potential traffic management schemes at Cliff Hollins Lane and Mill Carr Hill Road
2. £15,000 for Travel Plan monitoring (£3,000 x 5 years).

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

1.0 INTRODUCTION

- 1.1 This is an application for outline planning permission for commercial development (Use Classes E(g)(ii); E(g)(iii); B2 and B8).
- 1.2 This application is brought to Strategic Planning Committee in accordance with the Delegation Agreement as the application has a site area exceeding 0.5ha and seeks non-residential development.

2.0 SITE AND SURROUNDINGS

- 2.1 The site has an area of 7.7ha. It hosts a mixture of structures associated with the former waste water treatment use and open grassland. Land levels fall from west to east. To the immediate east of the site is Huntsworth Beck and woodland, before progressing to open countryside. To the west is the M606 and the south the M62, with their junction (junction 26) being to the south-west.
- 2.2 To the north of the site is land, also formerly party of the waste water works and adjacent open land, currently being developed into a commercial park. Outline planning permission for the re-development of the site to provide employment uses (Use Classes B1(c), B2 and B8)) was issued on 25 October 2018 following its approval at Strategic Planning Committee on 8 March 2018. Various subsequent Reserved Matters (and other applications) have followed. At the time of writing three commercial buildings have been substantially completed. Further north are the settlements of Oakenshaw and Woodlands.

3.0 PROPOSAL

- 3.1 This application seeks outline planning permission for employment uses (Use Classes E(g)(ii); E(g)(iii); B2 and B8). Existing structures on site would be cleared. The proposal seeks a maximum floorspace of 12,078sqm (130,006.51sqft). All matters, namely access, appearance, scale, layout, and landscaping, are reserved.
- 3.2 Notwithstanding all matters being reserved, an indicative site plan has been provided to establish how the site may be developed. It demonstrates a singular rectangular building, sited roughly central within the site, with access to the west, parking facilities to the north, and service area to the south.

4.0 RELEVANT PLANNING HISTORY (including enforcement history)

4.1 Application Site

2016/92298: Outline application for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) – S106 Outline Approved

Note: The following applications all stem from application 2016/92298, which was an outline application for commercial development covering the application site plus additional land to the north. All the subsequent applications (reserved matters, non-material amendments etc.) relate to the land to the north only and do not include works within the application site. However, as they stem from the extensive red-line from 2016/92298 that covers this application site they do procedurally fall within this ‘application site’.

2020/91436: Non material amendment to previous permission 2016/92298 for outline application for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) – NMA Approved

2020/91488: Reserved matters application pursuant to outline permission 2016/92298 outline application for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) (Phase 1) to include the discharge of Conditions 6 (BEMP), 17 (Site investigations), 18 (Tree Survey), 29 (Noise attenuation) and 31 (Electric vehicle charging points) – RM Approved

2020/91807: Reserved matters application pursuant to Phase 2 of outline permission no. 2016/92298 (as amended by NMA 2020/91436) for the re-development of the former waste water treatment works following demolition of existing structures to provide employment uses (Use classes B1(c), B2 and B8) to include the discharge of Condition 6 (BEMP), Condition 9 (Lighting design strategy), Condition 17 (Site investigations), Condition 29 (Noise attenuation) and Condition 31 (Electric vehicle charging points) of 2016/92298 as they relate to Phase 2 – RM Approved

2021/90893: Variation of Conditions 1, 2 and 4 on previous permission 2020/91807 for Reserved Matters Application pursuant to Phase 2 of Outline Permission 2016/92298 (as amended by NMA 2020/91436) for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (B1(C), B2 and B8) to allow for minor changes to the shape of the building to address the correct positioning of existing overhead power cables – Removal / Variation approved

2021/91901: Non material amendment to Condition 20 of previous permission 2016/92298 for outline application for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) to enable the construction of Phase 2 – NMA Approved

2021/94060: Variation condition 32 on previous permission 2016/92298 for outline application for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) – Pending determination (approved at committee, pending S106 being signed)

2022/91849: Variation condition 21 (highways and occupation) on previous permission 2016/92298 for outline application for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) – Pending determination (approved at committee, pending S106 being signed)

2022/91639: Non material amendment to previous permission 2021/90893 for Variation of Conditions 1, 2 and 4 on previous permission 2020/91807 for Reserved Matters Application pursuant to Phase 2 of Outline Permission 2016/92298 (as amended by NMA 2020/91436) for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (B1(C), B2 and B8) to allow for minor changes to the shape of the building to address the correct positioning of existing overhead power cables – NMA Approved

2022/92824: Non material amendment to previous permission 2021/91932 for reserved matters application pursuant to outline permission 2016/92298 for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) relating to Phase 4 - the construction of 2 x industrial warehouse units with ancillary office accommodation (approximately 6021m² and 4046m²) with parking and landscaping, including the discharge of Condition 6 (Bio-diversity Enhancement Management Plan), Condition 17 (Site Investigations), Condition 19 (Public Rights of Way), Condition 29 (Noise Attenuation) and Condition 31 (Electric Vehicle Charging Points) – NMA Approved

Note: Discharge of condition applications not listed due to substantial number.

4.2 Surrounding Area

land west of M62, south of, Whitehall Road, Cleckheaton, BD19 6PL

2021/92603: Erection of storage and distribution unit (Use Class B8) with ancillary offices, car parking, servicing, landscaping and access (amended and further information received) – Pending consideration

4.3 Enforcement History

COMP/20/0238: Alleged breach of conditions – Resolved

COMP/20/0268: Material start on permission in breach of conditions – Resolved

A Temporary Stop Notice (TSN) was served on the site on 10th July 2020. It was issued as a result of construction works pursuant to Phase 1 having commenced without the relevant pre-commencement conditions having been discharged. The works that had started were principally deemed to have caused harm to residential amenity as a consequence of the stockpiling of material on the boundary of the site near to residential properties. The TSN required the applicant to cease all construction works pursuant to 2016/92298, including demolition, excavation & engineering works. It took effect on 10 July 2020 and ceased to have effect on 7 August 2020. The applicant complied with the terms of the TSN.

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme)

5.1 The applicant sought pre-application advice from the Local Planning Authority (ref. 2021/20584) in June 2021.

5.2 Prior to submitting their pre-application enquiry the applicant had been in discussions with National Highways regarding the safeguarded land within allocation ES7 and had, via email, received confirmation that National Highways that they would not oppose the development in principle (i.e. the loss of the safeguarded land). For full details on this please see paragraphs 8.1 and 10.5 – 10.10. This information from National Highways, which was independently verified by officers at the time, informed the applicant's pre-application. Officers provided commentary on other material planning considerations. A response was issued in October 2021.

5.3 The current application was submitted in November 2021. Various discussions have taken place between the applicant and LPA. These principally related to highways, with further details for review provided by the applicant on request. This included demonstrating cycle improvements off-site are feasible and ensuring the provision of appropriate turning facilities. Discussions on reasonable contributions via S106, namely travel plan monitoring and potential improvements to local traffic management, were agreed.

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) and Supplementary Planning Guidance / Documents

- 6.2 The application site is part of land allocated for employment development in the Local Plan (site allocation ref: ES7).

- 6.3 Site allocation ES7 identifies the following constraints relevant to the site:

- Land to be safeguarded for M62/M606 widening scheme
- The access road will require widening into the site as well as improvements to its junction with Cliffe Hollins Lane
- Additional mitigation on wider highway network may be required
- Public right of way in close proximity to the north of the site
- Part of the site is within flood zone 3
- Surface water issues
- Potentially contaminated land
- Potential for noise impact
- Potential for odour impact
- Site affected by hazardous installation / pipelines
- Proximity to a Local Wildlife Site
- Part/all of the site is within a High-Risk Coal Referral Area
- Power lines cross the site

- 6.4 Relevant Local Plan policies are:

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP3** – Location of new development
- **LP9** – Supporting skilled and flexible communities and workforce
- **LP13** – Town centre uses
- **LP19** – Strategic transport infrastructure
- **LP20** – Sustainable travel
- **LP21** – Highway safety and access
- **LP22** – Parking
- **LP24** – Design
- **LP26** – Renewable and low carbon energy
- **LP27** – Flood risk
- **LP28** – Drainage
- **LP30** – Biodiversity and geodiversity
- **LP32** – Landscape
- **LP33** – Trees
- **LP34** – Conserving and enhancing the water environment
- **LP38** – Minerals safeguarding
- **LP51** – Protection and improvement of local air quality

- **LP52** – Protection and improvement of environmental quality
- **LP53** – Contaminated and unstable land
- **LP64** – Employment allocations

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

Supplementary Planning Documents

- Highways Design Guide SPD (2019)

Guidance documents

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

National Planning Guidance

6.6 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) 2021, 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. 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 6** – Building a strong, competitive economy
- **Chapter 7** – Ensuring the vitality of town centres
- **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

6.7 Other relevant national guidance and documents:

- MHCLG: National Design Guide (2021)

Climate change

6.8 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.

- 6.9 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.

7.0 PUBLIC/LOCAL RESPONSE

Public representation

- 7.1 The application has been advertised as a major development via site notices and through neighbour letters to properties bordering the site, along with being advertised within a local newspaper. This is in line with the Council’s adopted Statement of Community Involvement.
- 7.2 The end date for public comments was the 5th of January 2022. Eight public representations were received in response to the advertisement. The following is a summary of the comments made:
- The road network around this site (specifically Mill Carr Hill Road and Cliff Hollins Lane) is not acceptable for the type of HGV movements, or volume, associated with this development. This makes the area dangerous to residents and nearby school children.
 - The proposal will result in more noise and disruption for residents, causing harm to amenity.
 - The continued development of the site has harmed the character and setting of Oakenshaw, from ‘*small village surrounded by beautiful fields, now we are a small village DROUNDED by industrial sites.*’
 - Vehicles accessing the site have caused damage to the road and require no vehicles to be parked opposite the junction between Mill Carr Hill Road and Cliff Hollins Lane.
 - The proposal will harm local air quality, to the detriment of local residents and school children.
 - The land is Green Belt and should not be developed
 - Bradford Road and Chain Bar roundabout are heavily congested, which this proposal will exacerbate.
 - The proposed development would result in the coalescence of Bradford and Cleckheaton, contrary to the Inspector’s comments at the Local Plan hearings, specifically relating to the release of Green Belt land.
 - The land has been preserved by Highways for motorway / roundabout improvements.
 - The original approval was for lighting industrial, but has changed to transport and warehousing.
 - The developer of the site has breached planning conditions several times.
 - Access should be directly from the M606 or Chain Bar roundabout.

- The applicant's report is based on 2011 traffic data / census data which should be considered out of date.
- The proposal will create greater runoff into the adjacent watercourse. The approved drainage strategy is insufficient and tying into that is not appropriate.
- Applications 2021/94060 and 2021/84208 would cumulatively result in a 50% increase in floor space above that approved by 2016/92298.

7.3 The site is within Cleckheaton ward. Local ward members were also notified of the proposal. Cllr A Pinnock requested to be kept informed of the process of the application.

8.0 CONSULTATION RESPONSES

8.1 Statutory

National Highways: On the matter of the safeguarded land, National highways have stated:

"it is acknowledged that this development is proposed on land that the Council have previously safeguarded in the Local Plan in anticipation of a government led Road Investment Strategy (RIS) announcement, which looked at the feasibility of bringing forward a scheme in that locality.

However, due to the nature of the junction a complex solution will be required, which raised projected costs. Additionally capacity constraints between junctions 26 and 27 on the M62 would also impact the potential benefits derived from this scheme and other solutions on the M62 would need to be looked at. As such the scheme was placed into review for consideration as part of future road investment planning.

In March 2020 the RIS2 announcement was published, this did not include this scheme for consideration/delivery during the 2020 to 2030 road periods. Therefore, the probability of National Highways progressing a scheme within the remainder of this local plan period is unlikely. As such, this application has been considered on its own merits and it remains a matter for the Council to consider if they are minded to grant a planning consent."

On the matter of the proposal's impact on the strategic network (i.e., the motorways), giving due regard to traffic generation National Highways offer no objection.

K.C. Highways: Have been involved in discussions between the case officer and applicant to understand the highways implication of the proposal. This is covered in detail within the main report. In conclusion, subject to conditions and S106 requirements, it is considered that the proposal would not cause severe harm to the local (or strategic) highway network.

K.C. Lead Local Flood Authority (LLFA): No objection subject to conditions.

The Coal Authority: The site is within a Risk Coal Risk Area. The application is supported by a Coal Mining Risk Assessment which has been reviewed by the CA. No objection subject to conditions.

The Environment Agency: Offered initial objection due to inadequate details being provided. Further details were provided and, subject to conditions, no objection is now offered.

Yorkshire Water: No objection subject to conditions.

8.2 Non-statutory

Bradford MDC: No comments received.

K.C. Crime Prevention: Advise offered to the planning officer. Advise also offered to the applicant, on matters which fall outside of planning's remit.

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

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

K.C. Landscape: An informal discussion was held and advise offered on expectations for Reserved Matters stage.

K.C. Trees: No objection subject to conditions.

National Grid: No comments received.

West Yorkshire Archaeology Advisory Service (WYAAS): the site has been intensively used during the later 20th century and that there is no significant known archaeological potential within it. Therefore, no objection or conditions requested.

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

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

Land allocation

- 10.2 The site is allocated for employment use within the Kirklees Local Plan. Regarding such land, Policy LP64 (Employment Allocations) states:

The sites listed below are allocated for employment uses (as defined above) in the Local Plan. Planning permission will be expected to be granted if proposals accord with the development principles set out in the relevant site boxes, relevant development plan policies and as shown on the Policies Map. Proposals for office use on these allocations, that are not considered as ancillary would need to comply with Policy LP13 of the Local Plan.

- 10.3 The intended use class of the site (Use Classes E(g)(ii); E(g)(iii); B2 and B8) fall within the defined 'employment uses' and are acceptable on the site.
- 10.4 ES7 has an indicative capacity of 35,284sqm (379,793.82sqft), which the proposal would exceed. The indicative capacities on the Local Plan are not hard caps and may be exceeded (or gone below) subject to due regard of material planning considerations, as set out elsewhere within this assessment.
- 10.5 As per the policy requirements due regard must be given to the ES7 site box information contained within the Local Plan. These are listed in paragraph 6.3 and will be considered where relevant within this assessment. However, of principle consideration is the following:

- Land to be safeguarded for M62/M606 widening scheme

The application site, and proposed building (indicative layout), fall within the referenced safeguarded land. Policy LP19 also states that Proposals that may prejudice the future development of the strategic transport network will not be permitted.

- 10.6 The reason for the safeguarded land is that the land was identified within the Department for Transport's Road Investment Strategy 2015/16 – 2019/20 (RIS1) to potentially host a new connection between the M62 and M606, as follows:

provision of a direct link from the M62 westbound to the M606 northbound and removing significant congestion from the main part of the existing junction

The scheme was intended to provide a new link that would prevent traffic on the M62 heading into Bradford having to use Chain Bar roundabout to get onto the M606, in the interest of improving highway efficiency.

- 10.7 The RIS1 was the most up to date document at the time the Local Plan was being drafted and informed National Highways (then Highways England) input into the drafting of the document. National Highways therefore requested that the above criteria be included, which was accepted.

- 10.8 The RIS1's plans for the direct link between the M62 and M606 never materialised and, since the Local Plan was published, the RIS1 has been superseded by the Road Investment Strategy 2020 to 2025 (RIS2). The RIS2 has omitted the plans for the direct link between the M62 and M606 and does not propose it for the 2020 to 2030 period. National Highways have given the reasoning as:

due to the nature of the junction, a very complex solution is required, which has raised projected costs. Additionally capacity constraints between junctions 26 and 27 on the M62 are impacting the potential benefits derived from this scheme. Therefore, other solutions on the M62 will need to be looked at and we have put this scheme into review for consideration as part of future road investment planning.

- 10.9 Therefore, the initial reason for the safeguarded land – namely planned highway infrastructure by National Highways – has been removed. National Highways offer no objection to building upon this land. In terms of the application as a whole, they seek to comment only on its own merits (i.e., traffic generation) which are considered later in this report.
- 10.10 As the purpose of the safeguarded land has been removed, with no objection from the body responsible for its inclusion (nor K.C. Highways), there are considered no in-principle conflicts. The proposal seeks employment development upon an employment allocation and is welcomed in principle. Accordingly, there are considered no conflicts with Policy LP19 or 64. Due regard must be given to the local impact, as far as feasible at outline stage, which is outlined below.
- 10.11 No dedicated office uses (E(g)(i)) are proposed as part of this application. The inclusion of offices, at this out of centre location, would be a cause for concern and contrary to policy. While no dedicated officers are proposed, once built planning permission is not required to change a use within a use class (i.e., within the wider E use class). While the likelihood of a purpose-built commercial unit being converted to office is limited, given the potential harm that could arise at such a large amount of office floor space, it is deemed reasonable to remove the right to change via condition to avoid conflict with policy LP13.

Sustainable development and climate change

- 10.12 As set out at paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF goes on to provide commentary on the environmental, social and economic aspects of sustainable development, all of which are relevant to planning decisions
- 10.13 The application is supported by a sustainability statement which details potential measures that could be employed at the site to promote sustainable development. The sustainability statement is structured under a number of themes, and summarises how the sustainability aspirations may be delivered by a series of strategies to address key environmental, social and economic issues.

- 10.14 The measures detailed within the document are welcomed, however as the scheme is outline with all matters reserved many of the details are indicative. A condition is therefore recommended requiring a Climate Change statement at RM stage which details specific measures, built upon the sustainability statement submitted at OL stage.
- 10.15 Regarding climate change, measures would be necessary to encourage the use of sustainable modes of transport. Adequate provision for cyclists (including cycle storage and space for cyclists), electric vehicle charging points, and other measures have been proposed or would be secured by condition (referenced where relevant within this assessment). A development at this site which was entirely reliant on residents travelling by private car is unlikely to be considered sustainable. Drainage and flood risk minimisation measures would need to account for climate change. These factors will be considered where relevant within this assessment.

Urban Design

- 10.16 Relevant design policies include LP2 and LP24 of the Local Plan and Chapter 12 of the National Planning Policy Framework. These policies seek for development to harmonise and respect the surrounding environment, with LP24(a) stating; 'Proposals should promote good design by ensuring: the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape'.
- 10.17 The application is made at outline with all matters reserved for a subsequent Reserved Matters application. However, while specific details are not available for consideration, officers must consider whether any prohibitive reasons exist why appropriate details could not be provided later. The application is supported by a Landscape Visual Impact Assessment and indicative block plan which demonstrates how the site may be developed.
- 10.18 At present the site hosts unused wastewater structures and small area of pasture field. Due to topography and existing manmade structures / infrastructure views towards the site are limited; the M62 and M606 screen distance views from the south and west respectively. Near views from the motorways, which sit higher than the site, would be limited and fleeting. Furthermore, commercial units along the motorway corridor would not appear unusual. Rising topography and Hanging Wood screen distance views from the east, with no close public access, while from the north the proposal would be seen in the context (and likewise largely screened) by the new commercial units. The most prominent viewpoints, other than from within the site, will be close / moderate distance from Chain Bar roundabout (and the slip roads off the M606 onto the roundabout) immediately to the south.
- 10.19 The applicant's LVIA makes the following conclusion on the setting of the proposal:

The proposed development is of a similar scale and design to the approved development and it is therefore considered that the proposed development will be in context with its surroundings as a part of the wider approved development envelope. Proposed mitigation planting of native trees and hedgerows around the southern and western boundaries will help to assimilate the built form in its setting when it starts to reach

maturity. It is not considered that this land makes an important contribution to the character and setting of any identified settlement or historical asset

- 10.20 Officers concur with the above assessment. The site has low impact on the wider environment with limited views, from both near and far viewpoints, into it. While all design matters are reserved, the design is expected to replicate the other modern commercial units on the site. It would not be the largest structure within the wider re-developed site and is expected to sit on a lower ground level than those already build, with the plateau indicated to be dug into the land when viewed from the south / west viewpoints. Appropriate screening / planting via landscaping would be required to assist in softening the land between the commercial structure and highway network, but there are no prob
- 10.21 Notwithstanding the above, application 2016/92298 sought a maximum height of the units of 18m which has been adhered to by the other units (based on the LIVA submitted at that time). In the interest of design, coherency, and in accordance with master-planning principles, continuing this stipulating is deemed reasonable and may be secured via condition.
- 10.22 Subject to this condition, there are considered no prohibitive reasons why an appropriate design, specifically layout, appearance, scale, and landscaping, could not be provided at Reserved Matters stage to ensure compliance with the relevant policies. As such, the proposal is deemed to comply with Policies LP2 and LP24 of the Kirklees Local Plan.

Residential Amenity

- 10.23 Local Plan policy LP24 requires developments to provide a high standard of amenity for future and neighbouring occupiers, including by maintaining appropriate distances between buildings.
- 10.24 The nearest property to the application's red-line boundary is circa 190m away, with the M606 and Bradford Road interceding. However, the indicative plan indicates a buffer / landscaped area which would increase the building-to-building separation distance to over 300m. Other residential properties, to the north, are in excess of 500m from the site as well as having the other new commercial units sited between. Based on these separation distances officers consider there to be no fundamental concerns that harmful overbearing, overshadowing, or overlooking would be caused, to be fully assessed at Reserved Matters stage (layout, scale, appearance).
- 10.25 The application is supported by a Noise Impact Assessment which has been reviewed by K.C. Environmental Health. As all matters of specific design are reserved, the report highlights the limitation of certainties at this time, however the report makes reasonable assumptions to reach its conclusion.
- 10.26 While not disputing the conclusion, K.C. Environmental Health consider it premature without the actual particulars being provided. However, they accept there is no fundamental noise concern by virtue of the separation distance. A condition is therefore recommended for a further noise impact assessment, at Reserved Matters stage, once details on the particulars are known. A condition relating to mechanical plan and limiting noise it may produce is also recommended.

- 10.27 A condition requiring the submission and approval of a Construction (Environmental) Management Plan (C(E)MP) is recommended. The necessary discharge of conditions submission would need to sufficiently address the potential amenity impacts of construction work at this site, including cumulative amenity impacts should other nearby sites be developed at the same time. Details of dust suppression measures would need to be included in the C(E)MP. An informative regarding hours of noisy construction work is recommended.
- 10.28 To summarise, the proposed development is considered not to be detrimental to the amenity of neighbouring residents. Subject to the proposed conditions, the proposal is deemed to comply with LP24 of the Kirklees Local Plan.

Highway

- 10.29 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development would normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.
- 10.30 Paragraph 108 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 109 of the NPPF adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.
- 10.31 The application is outline with all matters, including access, being reserved. Therefore, details relating to the development's internal layout (such as parking, servicing, and other development specific matters) are to be determined at the Reserved Matters stage. Based on the size of the site and indicative plans there are no fundamental concerns that appropriate internal arrangements could not be accommodated.
- 10.32 Notwithstanding the above, due regard must be given to the impacts in the wider area, which can be considered based on a 'worse case' scenario of the proposed use and floor area, plus the existing road network.

Access and off-site works arrangements

- 10.33 Access is a reserved matter; however, given the limited options available it would inevitably be taken from the new road (currently unnamed) serving the northern units. This road itself takes access from Cliff Hollins Lane. Site allocation ES7 notes that the access road will require widening into the site, as well as improvements to the junction with Cliffe Hollins Lane and that additional mitigation on the wider highway network may be required. However, as part of 2016/92298, or the 'northern site', a suite of highway improvements was secured, both around the new junction and wider network. These improvements were:

1. works on the Bradford Road approach to M62 Junction 26 Chain Bar, providing an improved alignment to the junction, changes to signage, and a third lane for direct access to the M606
2. Mill Carr Hill Road/Bradford Road junction improvements for the widening of Mill Carr Hill Road to provide a right turn facility at the junction, new pedestrian footways, pedestrian refuge
3. Re-alignment of the Carr Hill Road/Cliff Hollins Lane junction to give priority to vehicles travelling towards Cliff Hollins Lane and the development site, new pedestrian footways, pedestrian refuge
4. Site access- realignment of Cliff Hollins Lane
5. 7.5 tonne lorry bans to Wyke lane and Cliff Hollins Lane

Note: For the avoidance of doubt the above works do not form part of this planning permission and have been previously secured as part of 2016/92298. They are listed here for information purposes only.

10.34 Given they have the same access arrangements, to ensure appropriate arrangements the above works are also required to facilitate the current development on the now proposed 'southern site' (see the following section for the assessment on proposal's traffic generation). Plans for points 2 – 4 are advanced, with works having started and bonds being paid to the Council to ensure they are completed. Therefore, there is considered no reasonable likelihood of them not being completed before the 'southern site' development comes forward and it is not considered necessary to impose a condition for those works as part of this application. For point 1, the improvements have been fully designed (agreed between the applicant, Highways Authority, and National Highways) and are currently out to tender. Until the tender is agreed the bond and S278 agreement cannot be completed; while it remains secured as part of 2016/92298, as there is a less definitive timeframe for the delivery of the works in point 1, it is deemed necessary to include a similar condition on this development: to ensure the improvements are in place before this development comes into use.

10.35 In addition to the already secured highway improvements, following further discussions with the applicant, they have now agreed to provide an improved cycle/footway link that would connect from the site access along the west side of Cliff Hollins Lane, up to the Cliff Hollins Lane/Mill Carr Hill Road junction and then west along the south side Mill Carr Hill Road, before terminating on the far side of the M606 overbridge (it is noted that no improvements can be provided beyond this point, due to highway boundary constraints). This improvement would be achieved by widening the existing footway and would link to the cycle/footway that is already being provided within the 'Northern' site access S38 road. This extended cycle/footway will provide an additional 250m of off-carriageway cycling provision, enabling development cyclists (and other users) to be separated by turning traffic at the Cliff Hollins Lane/Mill Carr Hill Road junction, which accords with the principles set out in LTN 1/20. This may be secured via condition (It should be noted that this would be subject to Traffic Regulation Order applications, which are subject to separate public consultation and assessment processes. Should the TRO applications be refused, it would demonstrate that the works are unfeasible. Highway improvements should only be implemented to the extent that they are reasonable).

- 10.36 Given the scale and nature of the development officers recommend a Construction Traffic Management Plan (CTMP) be secured via condition. This is to ensure the development does not cause harm to local highway safety and efficiency. This would be required pre-commencement, given the need to ensure appropriate measures from the start of works. K.C. Highways DM have also advised that a 'highway condition survey' be undertaken, via condition. This would include a review of the state of the local highway network before development commences and a post completion review, with a scheme of remediation works to address any damage attributed to construction traffic. This request is considered reasonable and a condition is proposed by planning officers.

Traffic Generation and Impact on the network

- 10.37 The proposal has been assessed against the potential for either 100% B2, 100% B8, or 50% B2 (6,077 m²) / 50% B8 'Parcel Distribution' (6,000m²) type uses, with the latter being the highest peak hour traffic generating uses that would be proposed. Based on the trip rates for the highest peak hour traffic generating uses (50% / 6,077 m² B2 Industrial use & 50% / 6,000m² B8 Parcel Distribution use), the 'Southern site' is estimated to generate the following 'worse case' weekday network peak hour vehicle trips:

		Traffic Generations - North Bierley - Southern site					
		AM Peak (0800-0900)			PM Peak (1700-1800)		
		Arr.	Dep.	Total	Arr.	Dep.	Total
Parcel Distribution (6,000sq.m)	Total Vehicles	23	23	46	27	28	55
	OGV's	1	6	7	4	2	6
Industrial (6,077sq.m)	Total Vehicles	32	6	38	4	26	30
	OGV's	2	1	3	1	0	1
Total	Total Vehicles	55	29	84	31	54	85
	OGV's	3	7	10	5	2	7

Note: OGV = Ordinary Goods Vehicle

- 10.38 The above is predicated on the 'worse case' scenario having a 50% use of the site as Parcel Distribution. As the greater traffic generator, a greater than 50% Parcel Distribution use would be expected to have higher than assessed impacts on the network. Therefore, should planning permission be granted for this development, it would be necessary to restrict by condition the level of B8 'Parcel Distribution' use to 6,000m².
- 10.39 The generated traffic would be dispersed across the surrounding network; using traffic modelling the junctions most affected have been identified and the proposal's impact on their capacity assessed. These junctions are:

- Cliff Hollins Lane / Access Junction
- Cliff Hollins Lane / Mill Carr Hill Road Junction
- Bradford Road / Mill Carr Hill Road Junction
- Chain Bar Roundabout

- 10.40 The applicant's technical submission has demonstrated that these junctions would operate satisfactorily post development. K.C. Highways Development Management (HDM) have reviewed the applicant's submission and conclude that the 'Southern' site development traffic can be accommodated on the local highway network (following completion of the improvements associated with the 'Northern' site (considered further below)) in terms of junction capacity, based on the highest peak hour traffic generating uses that are proposed at the 'Southern' site (e.g. 50% / 6,077m² B2 Industrial use & 50% / 6,000m² B8 Parcel Distribution use).
- 10.41 Specific to Chain Bar Roundabout as part of the Strategic Road Network, National Highways were consulted. They have no objection to the proposals, subject to a condition being imposed that requires a Construction Traffic Management Plan (CTMP) to be agreed and implemented that minimises impact on the SRN, (securing a CTMP has already been recommended by officers in paragraph 10.36).
- 10.42 Notwithstanding the above, local concerns have been raised regarding the additional traffic that may be generated from the entire development site (both the Northern and Southern sites) that could access the site via Cliff Hollins Lane and Mill Carr Hill Road to/from East Bierley and Bierley respectively, due to the nature and alignment of these roads.
- 10.43 To address these concerns, the consented Northern site development is required to fund the promotion of a 7.5T weight restriction on Cliff Hollins Lane to the east of the development site (as well as Wyke Lane to the west), to prevent large commercial vehicles from using these routes to access the site, to complement the similar restriction that is already in place on Mill Carr Hill Road. These new restrictions have now been approved and the necessary Traffic Regulation Orders are due to be come into effect shortly once the appropriate signage has been installed.
- 10.44 To further discourage commercial development traffic from the proposed 'Southern Site' from utilising Cliff Hollins Lane and Mill Carr Hill Road, it is recommended that a Delivery and Service Management Plan (DSMP) is secured by condition, which should include measures to discourage commercial light van (e.g., those below 7.5T) traffic from using these routes.
- 10.45 HDM have also consulted with the Council's Road Safety Team and their HDM counterpart at Bradford MDC to determine whether any additional measures could be introduced on Cliff Hollins Lane and Mill Carr Hill Road. However, given that there is no recent history of Personal Injury Collisions (PIC) on these routes (there has been a single slight incident on Cliff Hollins Lane and none on Mill Carr Hill Road over the latest 5 year period) and as traffic flows are now lower than assessed in the original Transport Assessment undertaken for the 'Northern Site' approval (the 2017 TA identified two-way peak hour flows of up to 266 & 359 vehicles on Cliff Hollins Lane and Mill Carr Hill Road respectively, following completion of the 'Northern Site' development), then no additional measures are considered to be appropriate at this time.

10.46 However, it has been agreed with the Councils Road Safety Team and Bradford MDC that if traffic flows were to increase in future on Cliff Hollins Lane and Mill Carr Hill Road, beyond the levels that have previously been accepted (e.g. up to 266 & 359 two-way hourly flows on Cliff Hollins Lane and Mill Carr Hill Road), then consideration could be given to providing additional/amended Traffic Regulation Orders (TRO) or other suitable measures (e.g. lining/signing improvements) on these routes, which could include the introduction of 'No Motor Vehicle - Access Only' TRO restrictions. Therefore, it is recommended that a S106 obligation is secured to monitor traffic flows on these routes, and if necessary, provide funding for the additional/amended Traffic Regulation Orders (TRO) or other suitable measures, should these be deemed necessary/appropriate by the Local Highway Authorities. A summary of the suggested S106 obligation is as follows:

1. The landowner to procure (at their expense) an annual 1 week automatic traffic count on Cliff Hollins Lane and Mill Carr Hill Road (date and location to be agreed), and provide the data to the Local Planning Authority for review. This monitoring would be required for a period of up to 5 years following full occupation of the sites (both the 'Northern' and 'Southern' sites).
2. Should the annual monitoring data identify that the peak hourly traffic flow exceed 266 two-way movements on Cliff Hollins Lane or 359 two-way movements on Mill Carr Hill Road, consideration will be given by both Local Highway Authorities to decide whether to proceed with any additional/amended Traffic Regulation Orders (TRO) or other suitable measures on these routes.
3. Should a decision be made to not proceed with any new measures at that time, Stages 1 and 2 would be repeated the following year.
4. However, should the Local Highway Authorities decide to promote the new measures, the landowner would be required to fund the necessary measures. To fund the additional/amended Traffic Regulation Orders (TRO) or other suitable measures on these routes, including any signing/lining improvements, a financial contribution of £15,000 for each route will be required, which equates to a total contribution of **£30,000**.

Accessibility, Sustainable Transport and Travel Plan

10.47 Due to the site's location at the end of a circa 700m long industrial estate road, the extent to which the local areas are accessible on foot is relatively low, which is confirmed on the walking isochrone plan provided by the applicant. The M606 and M62 to the south and west form barriers to movement. The isochrone plan also confirms that Low Moor Railway station is not within walking distance of the site. As such, it is clear that pedestrian accessibility is poor and few staff are likely to walk to the development site.

10.48 As walking is likely to be an unattractive option for most staff, cycling offers a viable alternative. As such, the provision of the extended cycle / footway that has now been proposed by the applicant along Cliffe Hollins Lane and Mill Carr Hill Road is welcomed, and will help to encourage cycle use to both the Northern and Southern development sites.

- 10.49 The nearest bus stops on Bradford Road are circa 1.2km walk from the development site and Low Moor Railway station is over 2km from the development site. Therefore, public transport is unlikely to be an attractive option for staff at the development. However, it is noted that the nearest bus stops on Bradford Road are due to be upgraded with real-time displays, via funding from the 'Northern' site development (funding to be provided prior to first occupation), which will enhance the existing level of provision.
- 10.50 A Framework Travel Plan has been provided in support of the development, which is proposed to be developed further once an end user has been identified. This approach is acceptable, and a suitably wording planning condition can be used to secure this. Kirklees Council require Travel Plan monitoring fees to be secured as part of the S106 agreement. For a development of this scale (classed as a 'Large Scale Major Development' that is in excess of 10,000m²) the fee is **£15,000** (£3,000 per year for 5 years) and should be secured via a S106 agreement

Highways, summary

- 10.51 While access is a reserved matter, the proposal is expected to use the access as approved via 2016/92298, which is considered acceptable. That application included various improvements to the local highway network which this development would benefit from. The traffic generation of the proposal has been assessed and could be accommodated on the local and strategic network (as improved via 2016/92298) without issue. Options to improve sustainable travel to and from the site have been explored, including securing the provision of a cycle lane (subject to TRO) and travel plan.
- 10.52 In light of the above, officers are satisfied that the proposal would not harm the safe and effective use of the highway network, in accordance with the aims and objectives of Policies LP19, LP20, and LP21 of the Local Plan.

Drainage and Flood Risk

- 10.53 The application is supported by a Flood Risk Assessment, which includes indicative Surface Water Drainage details. These documents have been reviewed by the Lead Local Flood Authority (LLFA), the Environment Agency (EA) and Yorkshire Water.
- 10.54 The site is primarily within Flood Zone 1, however parts of the redline do extent into Flood Zone 2 and 3 adjacent to Hunsworth Beck along the east of the site (and partly to the north, presumably following artificially levelled land). The indicative details however demonstrate that the development can comfortably be fitted entirely within Flood Zone 1 and there is no fundamental reason why works will be required within either Flood Zone 2 or 3. The Environment Agency have requested a condition that development be undertaken in accordance with the submitted FRA (and supporting document), specifically that the finished floor levels be set above (92.0mAOD) and that no works take place within Flood Zone 3. Given the details provided, this is considered a reasonable approach to ensure the development neither suffers from, or exacerbates, flood risk.

- 10.55 Progressing to surface water drainage, as an outline application with all matters reserved a fully detailed drainage strategy cannot be expected at this time. However, sufficient detail to demonstrate the fundamentals of such a scheme are required, such as demonstrating discharge points and that appropriate attenuation is feasible.
- 10.56 In terms of discharge point the applicant has followed the drainage hierarchy. It has been demonstrated that infiltration is not feasible, so it is proposed to discharge into Hunsworth Beck, which is acceptable. The proposal seeks a discharge rate of 12.15 l/s, which would represent a comparable greenfield runoff rate (based on 5.0 l/s per ha for a 2.42 ha developable area site). An indicative attenuation strategy, consisting of a tank and basin, has been provided to show demonstrate feasible attenuation arrangements.
- 10.57 The discharge point and rate are considered acceptable to the LLFA. The indicative attenuation details are not objected to, although further details would be required to undertaken full assessment. However, as an outline application with all matters reserved such detail cannot be sought at this time. Nonetheless, based on the details provided, the LLFA and officers are satisfied that appropriate details may be provided at Reserved Matters stage, to be secured via the following conditions:
- Detailed drainage strategy, to include management and maintenance arrangements, to be provided at Reserved Matters stage (layout)
 - Surface water flood routing strategy to be provided at Reserved Matters stage (layout)
- 10.58 In addition, the LLFA have requested the following conditions, which would be required pre-commencement:
- Details of temporary surface water drainage arrangements, during construction (pre-commencement)
 - Oil separator to be installed within hard surfaced areas / car park (pre-commencement)
- 10.59 Officers support the inclusion of the above conditions and recommend their inclusion. Subject to these, the LLFA offer no objection.
- 10.60 The proposal has also been reviewed by Yorkshire Water, and the site is a former Yorkshire Water facility which retains some function. Yorkshire Water have therefore requested the following conditions:
1. Development to be done in accordance with the submitted Flood Risk Assessment
 2. No development within easement of sewers within the site (unless diversion agreed)
 3. Arrangement for ensuring permanent access to the Moorend Combined Sewer Overflow and the associated syphon sewer
 4. Foul water arrangement details to be provided.
 5. Details of surface water outfall to be approved.
 6. measures to protect the public sewerage infrastructure that is laid within the site to be provided.
 7. The site shall be developed with separate systems of drainage for foul and surface water on and off site

Except for the requested conditions 1 and 5, which would replicate the details required by the EA and LLFA, the above conditions are considered reasonable to ensure adequate drainage and foul water arrangements and protected existing infrastructure.

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

Other Matters

Air quality

- 10.62 The application is supported by an Air Quality Assessment which has been reviewed by K.C. Environmental Health. The assessment details the impact the development will have on existing air quality, and how this will impact existing sensitive receptors by considering dust emissions during the construction phase, and air pollution from the additional traffic travelling to and from the development during the operational phase.
- 10.63 First considering the additional traffic generation, having assessed the report, K.C. Environmental Health agree with the overall methodology and approach undertaken. They concur with the conclusions of the report that for the operational phase of the development concentrations of the relevant pollutants would not be exceeded at any of the modelled receptor locations. Therefore, no concerns are raised.
- 10.64 For the construction phase, it is accepted that there is a potential impact from fugitive dust upon nearby dwellings. The report concluded that there is the potential for air quality impacts as a result of fugitive dust emissions from the site, from earthworks, construction and track-out, but that these impacts could be controlled by the implementation of good practice dust control mitigation. Site specific mitigation measures are provided to prevent this, which are accepted by K.C. Environmental Health, and are recommended to be secured via condition.
- 10.65 Notwithstanding the above a condition is recommended for provision of Electric Vehicle Charging Points (1 per 10 parking spaces). The purpose of this is to promote modes of transport with low impact on air quality. Subject to this, the proposal is considered to comply with the aims of Policies LP24(d) and LP51 and the West Yorkshire Low Emission Strategy Planning Guidance

Coal legacy

- 10.66 The site falls within the Coal High Risk Zone. The applicant has provided a Coal Mining Risk Assessment which has been reviewed by the Coal Authority.
- 10.67 The Coal Authority do not object to the proposal, subject to the imposition of conditions. These include appropriate site investigations taking place to inform the Reserved Matters proposals and, if needed, appropriate remediation measures. This is to avoid future complications / issues between the new building and historic coal workings. Subject to the imposition of the requested conditions' officers are satisfied that the proposal complies with the aims and objectives of LP53.

Contamination

- 10.68 Due to its past use the site, and adjacent land, has the potential to include contaminated land. The application is supported by Contaminated Land investigation reports, which have been reviewed by K.C. Environmental Health.
- 10.69 The applicant has submitted Phase 1 and Phase 2 ground investigation reports which have been reviewed by K.C. Environmental Health. The Phase 1 has been accepted; however, the phase 2 has not due to insufficient information. Nonetheless, this would not form a prohibitive issue for development. Accordingly, Environmental Health recommend conditions relating to further ground investigations. Subject to the imposition of these conditions' officers are satisfied that the proposal complies with the aims and objectives of LP53.

Crime Mitigation

- 10.70 K.C. Designing Out Crime have expressed no in-principle objections to the development, subject to appropriate crime mitigation measures coming forward. Given that such features would fall under the remit of Reserved Matters, this will be considered further during the subsequent application with no specific condition deemed necessary at this time.

Infrastructure on site

- 10.71 A High-Pressure Gas Pipeline and Overhead Powerlines cross allocation ES7 and the proposed building (based on indicative layout) is expected to fall within their zones of influence.
- 10.72 Northern Gas were consulted on the proposal and they issued an initial objection. This is commented to be standard procedure from Northern Gas when development is proposed within the hazard zone around one of its pipes. This led to a meeting between the developer and Northern Gas where the proposal was discussed in detail. Northern Gas remove their objection subject to a condition requiring that, if the building is within 140m of the gas pipe (the hazard zone) either;
- a) demonstrating that there are no significant safety or risk issues caused by the proposed building and its associated population increase; or
 - b) include a written management scheme, which seeks to minimise any safety and risk issues caused by the increased working population within proximity of the high-pressure gas pipeline.

Officers consider this to be a reasonable approach to resolve the matter.

- 10.73 On the matter of the Overbear Powerlines, National Grid were consulted but no response was received. National Grid have an advisory document 'Development near overhead lines', where the following is sated:

Since it does not own the land, it [National Grid] cannot prevent development close to or under overhead lines (although, of course, safe electrical clearances must be maintained). It has sometimes been suggested that minimum distances between properties and overhead

lines should be prescribed. National Grid does not consider this appropriate since each instance must be dealt with on its merits. However, it has always sought to route new lines away from residential property on grounds of general amenity. Since the only limitation on new development has been the statutory safety clearances (Appendix III), a large amount of residential and other development has been carried out subsequently beneath and adjacent to overhead lines.

- 10.74 Compliance with the statutory safety clearances, and other matters relating to relationship with the powerlines, are considered a private matter for the applicant and National Grid. It is noted that the proposal is for employment use, and the new building would be no closer to the powerlines than the buildings elsewhere on the site.
- 10.75 In light of the above, officers are satisfied that the proposal would neither raise health and safety concerns, nor risk harm to existing infrastructure.

Trees and Ecology

- 10.76 Tree cover within the site is intermittent and, with none being close to the public realm, are of limited public amenity. Nonetheless based on the indicative layout the application's detailed Arboricultural Impact Assessment shows that there will be minimal impact on the existing trees on site. K.C. Trees offer no objection to the proposal.
- 10.77 The proposal is supported by an Arboricultural Method Statement and Tree Protection Plan which demonstrates how the trees on site would be protected. However, as layout is reserved and the submitted details are predicated on an indicative layout, it is considered premature to accept the submitted details. Nonetheless, they demonstrate no prohibitive issues relating to trees and the proposed development. A condition is therefore recommended requiring the Reserved Matters of layout and landscaping to include an updated Arboricultural Impact Assessment, Arboricultural Method Statement, and Tree Protection Plan, to reflect any changes to the layout.
- 10.78 Hanging Wood Ancient Woodland is to the south of the site. The application's redline has a minimum distance of 18m from the Ancient Woodland, although this is typically greater as the intervening Hunsworth Beck meanders on the boundary. The indicative layout of the building shows a separation in excess of 60m. Based on these distances and the presence of Hunsworth Beck there are no concerns over the impact on the ancient woodland.
- 10.79 Policy LP30 of the KLP states that the Council would seek to protect and enhance the biodiversity of Kirklees. Development proposals are therefore required to result in no significant loss or harm to biodiversity and to provide net biodiversity gains where opportunities exist.

- 10.80 The application is supported by an Ecological Impact Assessment (EclA). This provides an overview of the site's ecological characteristics and considers the impact of the development. The site consists of a mixture of brownfield (vacant) land, neutral grassland, and mixed scrub. There is also Hunsworth Beck to the east of the site and a small unnamed watercourse that culverts under the site to the north-west. Part of the site, largely the areas of Grassland and Mixed Scrub, fall within the Council's Wildlife Habitat Network. Nonetheless, the habitats on site are deemed to have limited, local value only. Through introducing new development the proposal will result in a loss of habitat (not the identified water environment), however the impact of this may be offset through habitat enhancements on-site (or nearby).
- 10.81 The application is supported by a baseline assessment of the site's ecological value. As an outline, with all pertinent matters reserved (layout and landscaping), complete net gain calculations which show how a 10% improvement would be secured on site (or nearby) cannot be fully undertaken. Nonetheless, the applicant has undertaken an indicative assessment using reasonable expectations to demonstrate how 10% enhancement may be deliverable on site. This, plus the site's baseline calculations, establish starting point and identifies no prohibitive reason why future net gain cannot be secured. A condition is recommended requiring the Reserved Matters (of layout and landscape) to including an Ecological Design Strategy (EDS) which demonstrates how 10% ecological net gain would be secured on site.
- 10.82 Appropriate survey work has been undertaking relating to local species. The site has the potential to host bird foraging and nesting, with limited value for local bat species. Surveys have confirmed the likely absence of crayfish. Three conditions are considered necessary to ensure no direct harm to local species;
- a lighting designs strategy, to ensure lighting does not affect
 - Restrict site clearance to outside of bird breeding season (unless appropriate surveys are undertaken)
 - Construction Environmental Management Plan: Biodiversity (CEMP: Biodiversity), to ensure temporary construction processes are appropriately managed.
- Subject to these conditions, plus the net gain / habitat improvements to be secured within the EDS, officers are satisfied there would be no undue harm to local species.
- 10.83 Invasive plant species (Himalayan Balsam and Japanese Knotweed) have been identified along Hunsworth Beck. Therefore, a condition for an invasive species management plan is recommended, to avoid spreading invasive species.
- 10.84 While an outline application with all matters reserved, the submitted Ecological Impact Assessment has appropriately demonstrated that it is possible to develop the site for commercial use without causing harm to local ecology and while providing the required biodiversity net gain. Accordingly, subject to the given conditions, the proposal is deemed to be in accordance with relevant local and national policy, including Local Plan policy LP30 and chapter 15 of the NPPF.

Representations

10.85 The following are responses to the matters raised within the public representations received, which have not been previously addressed within this assessment.

- The proposed development would result in the coalescence of Bradford and Cleckheaton, contrary to the Inspector's comments at the Local Plan hearings, specifically relating to the release of Green Belt land.
- The land is Green Belt and should not be developed

Response: The land in question is Employment Allocation within the Local Plan. It was removed from the Green Belt through the Local Plan process. The following is extracted from the Inspector's letter, when considering whether it was approved to remove the site from the Green Belt:

The site is brownfield land and has now gained outline planning permission for redevelopment for employment uses. The site is located in the M62 corridor, and development in this strategic location would help to meet the needs of businesses and generate new jobs. The site lies in part of the Green Belt gap between Hunsworth and Woodlands. However, the site is previously developed land which contains existing buildings and structures, and a clear physical gap would remain. The site is also contained by woodland and slopes to the east and by the M62 and the M606 to the west and south, and therefore has a limited relationship with the wider countryside. Taking account of these factors I conclude that exceptional circumstances exist to justify removal of the site from the Green Belt.

An area of land to the north of this site was removed from the allocation and kept as Green Belt, to assist in keeping the settlements distinct.

- Vehicles accessing the site have caused damage to the road and require no vehicles to be parked opposite the junction between Mill Carr Hill Road and Cliff Hollins Lane.
- The original approval was for lighting industrial, but has changed to transport and warehousing.
- The developer of the site has breached planning conditions several times.

Response: The above refer to Outline application 2016/92298 and its subsequent Reserved Matters. That is a separate application with different land owner. Therefore, the above comments carry no weight in this application, although it is noted that 2016/92298 did permit both light industrial (B1(c) and B2) and transport / warehouse (B8) uses.

- Access should be directly from the M606 or Chain Bar roundabout.

Response: The site access from Cliff Hollins Lane has been established via 2016/92298. Expecting this single unit to be served from M606 or Chain Bar would be unreasonable and unnecessary. As part of 2016/92298 access from the M606 and Chain Bar was considered and discounted as being against national highway policy.

- The applicant's report is based on 2011 traffic data / census data which should be considered out of date.

Response: The 2021 census data has not been released yet and the 2011 is still the most up to date.

- The proposal will create greater runoff into the adjacent watercourse. The approved drainage strategy is insufficient and tying into that is not appropriate.

Response: The application has demonstrated appropriate drainage arrangements, including

- Applications 2021/94060 and 2021/94208 would cumulatively result in a 50% increase in floor space above that approved by 2016/92298.

Response: The floorspace cap referred to above was based on the details held at that time. Each application is assessed against its own merits, with this application (and the details provided with 2021/94060) sufficient to demonstrate an increased figure is acceptable.

11.0 CONCLUSION

- 11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.2 The site is an Employment Allocation, where employment generating uses such as that proposed are to be welcomed in principle. While the proposal falls within land safeguarded at the time the Local Plan was drafted, the reason for safeguarding is no longer present. Therefore, there are no principle concerns over the proposal.
- 11.3 The application is outline with all matters reserved. Nonetheless due regard has been given to the proposal's material planning impacts, such as upon local ecology, highways, and drainage, and consideration of whether any prohibitive reasons would prevent acceptable details coming forward at reserved matters stage.
- 11.4 No issues have been identified and the proposal is deemed to comply with the relevant local and national policies. It is considered that the development would constitute sustainable development and is therefore recommended for approval, subject to conditions and planning obligations to be secured via a Section 106 agreement.

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

1. Three years to commence development.
2. Development to be carried out in accordance with the approved plans and specifications

3. Reserved Matters (layout, scale, appearance, landscape) to include updated Sustainability Statement, built upon indicative provisions detailed in outline Sustainability Statement
4. Building not to exceed 18m in height.
5. Construction Environmental management Plan (CEMP)
6. Noise impact assessment to be provided at RM stage
7. Control on plant equipment noise level
8. Development to be done in accordance with dust mitigation measures
9. Limit on development floor area (max. 12,077m² GFA), with specific restriction on Parcel Distribution/'Last Mile Delivery' use (max. 6,000m² GFA).
10. Design and the implementation of cycle / footway improvement on Cliff Hollins Lane and Mill Carr Hill Road.
11. No development to be occupied, prior to completion of the site access and off-site highway improvements Bradford Road (approach to M62 Junction 26 Chain Bar, providing an improved alignment to the junction, changes to signage, and a third lane for direct access to the M606)
12. Detailed Travel Plan to be submitted / implemented.
13. Delivery and Servicing Management Plan (DSMP) to be submitted / implemented.
14. Construction Traffic Management Plan (CTMP) to be submitted / implemented.
15. Highway condition survey and remediation.
16. Development be undertaken in accordance with the submitted FRA (and supporting document), specifically that the finished floor levels be set above (92.0mAOD)
17. Detailed drainage strategy, to include management and maintenance arrangements, to be provided at Reserved Matters stage (layout)
18. Surface water flood routing strategy to be provided at Reserved Matters stage (layout)
19. Details of temporary surface water drainage arrangements, during construction (pre-commencement)
20. Oil separator to be installed within hard surfaced areas / car park (pre-commencement)
21. No development within easement of sewers within the site (unless diversion agreed)
22. Arrangement for ensuring permanent access to the Moorend Combined Sewer Overflow and the associated syphon sewer
23. Foul water arrangement details to be provided.
24. Details of surface water outfall to be approved.
25. measures to protect the public sewerage infrastructure that is laid within the site to be provided.
26. The site shall be developed with separate systems of drainage for foul and surface water on and off site
27. EVCP (1 per 10 spaces)
28. Contaminated Land (Phase 2, Remediation, Validation)
29. Arboricultural Reports to be provided at Reserved Matters (layout and landscape) stage.
30. Ecological Design Strategy, to secure 10% net gain based on provided baseline.
31. No site clearance within bird breeding season (unless survey undertaken)
32. Lighting Strategy for Ecology
33. CEMP: Biodiversity

34. Invasive species management plan

Background Papers

Application and history files

Available at:

[Planning application details](#)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f94208>

Certificate of Ownership

Certificate B signed.

Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 02-Mar-2023

Subject: Planning Application 2022/92406 Erection of 10 affordable dwellings, with access from Chapelgate and associated works, including resident play zone Land Adj, 67, Chapelgate, Scholes, Holmfirth, HD9 1SX

**APPLICANT
ECOHOLMES
COMMUNITY LAND
TRUST**

**DATE VALID
18-JUL-2022**

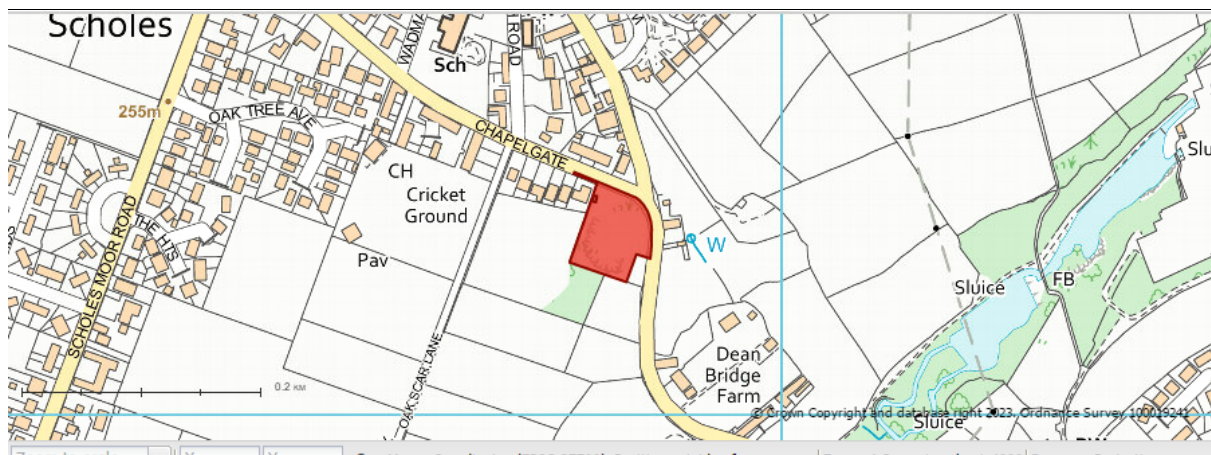
**TARGET DATE
17-OCT-2022**

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: Holme Valley South

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION

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

- Limit occupation of the dwellings to those with a local connection and in need of affordable housing.
- The provision of 0.8 habitat units within the area, an off-site contribution (£18,538), or a mixture of the two. On-site habitat to be managed for 30 years.
- Management and maintenance of drainage infrastructure (prior to adoption) and ecological features

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

1.0 INTRODUCTION

- 1.1 This is an application for full planning permission for a residential development of ten dwellings, to be affordable homes for people local to the area. This application is brought to Strategic Planning Committee in accordance with the Delegation Agreement as the proposal would represent a departure from the Local Plan.

2.0 SITE AND SURROUNDINGS

- 2.1 The site has an area of 0.37ha is a historic quarry on the east edge of Scholes. Chapelgate road runs along the north and Dean Bridge Lane, which leads to Hepworth, to the east. To the west and south are open fields. Residential properties are sited to the north, north-west and east.
- 2.2 The old quarry face is located to the site's west, with land levels generally falling from west to the east across the site, onto Dean Bridge Lane. The site has naturalised and includes shrub and self-seeded trees along its boundaries. A prefabricated garage is located within the north-west corner.

3.0 PROPOSAL

- 3.1 The proposal seeks full planning permission for the erection of 10 dwellings with associated access, parking, and open space. The 10 dwellings are to be affordable and for local occupancy.
- 3.2 Dwellings are to be two storeys and consist of the following mixture:
- 2bed: 7
2bed (Part M4(3)): 1
3bed: 2
- 3.3 The dwellings would be split into two terraces of five. Block A would face onto Chapelgate. Block B would face onto Dean Bridge Lane. Units would be faced in natural stone with traditional dealing on the elevations facing onto Chapelgate and Dean Bridge Lane. The elevations facing into the site would be faced in a mixture of natural stone and render, with modern designed windows.
- 3.4 Access is to be taken from a new road from Chapelgate. Parking is to be detached from dwellings, set around the new road. A new public pavement (2m minimum width) would be provided along the frontage with Chapelgate and Dean Bridge Lane.
- 3.5 Gardens would be sited between the dwellings and the new road, with low drystone walls along the boundaries and timber fencing between gardens. A communal play zone and planting area would be sited between the two terraces. Other ancillary features include cycle sheds (1 per unit) and communal binstore. Soft landscaping is proposed through the site and includes the provision of 28 trees.
- 3.6 Excavation and retaining works are to be utilised to facilitate the development. This is primarily to be achieved using gabion baskets up to 2m, with the remaining land to be sloped and secured using soil rock nailing that will then be grassed.

4.0 RELEVANT PLANNING HISTORY (including enforcement history)

4.1 Application Site

2014/93216: Outline application for erection of 6 of semidetached dwellings with garages, formation of off-road parking, gardens and communal play area – Withdrawn

2015/91231: Outline application for erection of 6 no. semi-detached affordable dwellings with garages, formation of off-road parking, gardens and communal play area – Withdrawn

Note: As they were withdrawn there is no formal decision on the above two applications. However, saved officer and agent correspondence indicates concerns from the case officers over the proposal seeking residential development within the Green Belt. It should however be noted that neither of the above applications were supported by formal housing needs assessment and were assessed against the now superseded Local Plan.

4.2 Surrounding Area

Nonrelevant to the current proposal.

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

5.1 The applicant initially sought pre-application advice (ref. 2021/20912) for the development in September 2021. The pre-application was for 10 affordable units, supported by a Housing Needs Survey and plans. Officers provided their response letter in February 2022. In summary, officers acknowledged the policy allowance for affordable housing within the Green Belt however advised that the assumptions and tolerances applied to the submitted Housing Needs Survey required refinement and further details. Advice was offered on other material considerations for further deliberation at application stage.

5.2 The current application was received July 2022. Feedback was provided on several elements. This included refining the design to ensure it would suitably harmonise with the built environment, and clarification on highways and ecological impacts. Discussions have principally focused upon the proposal's impact upon the Green Belt and the submitted Housing Needs Assessment. Officers sought further information to support the Housing Needs Assessment, which was received and supported. Other amendments were received to reduce the proposal's impact upon the Green Belt (i.e., removing an external covered area intended for social gatherings).

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) and Supplementary Planning Guidance / Documents

6.2 The site is Green Belt on the LP Policies Map.

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP3** – Location of new development
- **LP7** – Efficient and effective use of land and buildings
- **LP11** – Housing mix and affordable housing
- **LP20** – Sustainable travel
- **LP21** – Highways and access
- **LP22** – Parking
- **LP24** – Design
- **LP27** – Flood risk
- **LP28** – Drainage
- **LP30** – Biodiversity and geodiversity
- **LP38** – Mineral safeguarding

- **LP47** – Healthy, active and safe styles
- **LP51** – Protection and improvement of local air quality
- **LP52** – Protection and improvement of environmental quality
- **LP53** – Contaminated and unstable land
- **Chapter 19** – Green Belt and open space

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

Supplementary Planning Documents

- Highways Design Guide SPD (2019)
- Housebuilders Design Guide SPD (2021)
- Open Space SPD (2021)

Guidance documents

- Kirklees Interim Affordable Housing Policy (2020)
- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Waste Management Design Guide for New Developments (2020)
- Green Streets® Principles for the West Yorkshire Transport Fund

Neighbourhood Planning

The Holme Valley Neighbourhood Development Plan was adopted on 8th December 2021 and forms part of the Development Plan.

The site falls within Local Characteristic Area 8 (LCA8) Settled Slopes of the Holme Valley / Upper slopes of the River Holme and New Mill Dike

The policies from the Holme Valley Neighbourhood Development Plan that are relevant to this application are:

- **Policy 1:** Protecting and Enhancing the Landscape Character of the Holme Valley
- **Policy 2:** Protecting and Enhancing the Built Character of the Holme Valley and Promoting High Quality Design
- **Policy 5:** Promoting High Quality Public Realm and Improvements to Gateways and Highways
- **Policy 6:** Building Homes for the Future
- **Policy 12:** Promoting Sustainability
- **Policy 13:** Protecting Wildlife and Securing Biodiversity Net Gain

National Planning Guidance

6.4 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) 2021, 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. 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 5** – Delivering a sufficient supply of homes
- **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 relevant national guidance and documents:

- MHCLG: National Design Guide (2021)
- DCLG: Technical housing standards – nationally described space standard (2015)

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.

7.0 PUBLIC/LOCAL RESPONSE

The applicant's statement of community involvement

7.1 The application is supported by a statement of community involvement (SCI) which outlines the public engagement the applicant undertook prior to their submission.

7.2 The applicant posted a flyer to properties in the HD9 1 post code area (3,300 properties) that directed readers to a webpage and invited them to a drop-in session held at the site over several days in June 2021. Over 40 people attended, and 22 written comments were collected. This was followed by two digital workshops and an in-person meeting in March 2022 (advertised via flyer to HD9 1 properties) where 30 people provided feedback (14 positive, 12 negative, remainder balanced). An online questionnaire that asked several questions pertinent to the development were asked, which ran from February to April 2022, with 155 responses received.

7.3 The SCI provides the following conclusion on the pre-application public engagement:

Of the people turning up at events held to discuss EcoHolmes proposals for the Scholes Chippings, the balance of support/opposition has shifted from slightly more opposing the development (13 against to 9 for) in June 2021, to slightly more supporting the proposals (14 for to 12 against) in March 2022.

Features of the proposals that people like are the affordability promise and that they are for local people. That they are low energy and sustainable and are being built to a high standard.

The key concerns mentioned are traffic and pedestrian safety in the vicinity of the site, flooding and drainage problems, loss of wildlife and biodiversity and building on Greenbelt.

Therefore, attention should be paid to the following in our scheme proposals and continuing community engagement:

- 1. Moving the entrance away from the bend and existing road junction.*
- 2. Doing whatever is possible to improve pedestrian safety on the bend.*
- 3. Mitigate flood risk and ensure drainage problems are not created elsewhere (Dean Bridge Lane, White Wells Gardens and Wickleden Gate are mentioned specifically).*
- 4. Enhancing the biodiversity of the site.*
- 5. Working with residents to establish the eligibility criteria for tenancy.*
- 6. Explaining 'rural exception' policy in relation to greenbelt development.*

7.4 Based on their public engagement the applicant states the following changes were incorporated:

- Moving the site access (vehicles) to the west (1) with a 2m wide pedestrian footpath link for the extent of the site boundary (2)*
- Protection to the various boundaries (2) including fencing and stone walling*
- Detailed specialist design of the drainage to manage fully any flood risk/drainage issues on the site and connection to the existing drainage network (3)*
- Further existing tree retention where practical and significant replanting with native species, etc. (4)*
- Retention of farm vehicle access to adjoining land to the south-east*
- Material pallet refinement to the elevations of the housing*
- Housing unit mix type proposals*
- Work closely with residents in the local area to help refine the local eligibility criteria for housing tenancies (5)*

- *Inform residents about a community's right to seek the housing it wants, including the 'rural exception' policy for building on green belt land*

Public representation through the planning application

- 7.5 The application has been advertised as a Major development via site notices and through neighbour letters to properties bordering the site, along with being advertised within a local newspaper. This is in line with the Council's adopted Statement of Community Involvement.
- 7.6 The application was amended during its lifetime and a period of re-consultation, via neighbour letters, was undertaken. These were sent to all neighbouring residents, as well as to those who provided comments to the original period of representation.
- 7.7 The end date for public comments is the 21st of February 2023. At the time of writing, in total 232 public representations have been recorded although representations are still being received. Should any public representations be received past the 21st of February they will be reported within the update.
- 7.8 The following is a summary of the comments received:

Support

- The proposed development is well designed, both in the units and landscaping, and is attractive.
- The proposal will not harm the amenity of nearby occupiers.
- Best use of redundant land, providing a community benefit and much needed affordable housing.
- The proposal is environmentally conscious and innovative. Building to Passivhaus should be supported. Efficient housing will prevent impact on the climate and lower prices for residents.
- The proposal is small scale and designed to fit into the village, to benefit the village.
- and 3 bed properties should be promoted in the area, as opposed to large detached 4 and 5 bed.

Object

Green Belt

- The site is Green Belt and should be protected / preserved. It stops Scholes and Hepworth merging.
- Infill development in the Green Belt should be no more than 1 or 2 dwellings.
- The land is Green Belt, not Brownfield land
- The housing allocation in Scholes provide sufficient provision: the inspector, in the Local Plan, removed an amount of housing from the village to protect the Green Belt.
- The pre-application engagement by the applicant failed to mention that the land was Green Belt.
- There are no very special circumstances associated with this development to justify building within the Green Belt.
- This is Green Belt land which was gifted to local people.

Affordable housing and need

- The Housing Needs Assessment done by the applicant is inadequate.
- The housing will not be for local people, it'll have to be open to all people on the Council's Housing List. A planning condition would be insufficient to police the matter.
- Local action group Save Our Scholes Green Belt undertook a local survey on whether residents wanted development in Scholes. In total 176 responses were received (82% living within Scholes). In summary 90% of participants do not feel that building affordable homes on the site is the best use of the land and 78 believe the Green Belt should not be built on at all. 67% of responses wanted the site to be used as community green space.
- There are no details on the proposed sale / rent values of these properties to prove they would be 'affordable'.
- Limiting occupation of the units to local people only is assumed to be against the Council's Housing Association Policy.
- The applicant has failed to explore brownfield sites as alternative options. These include Washpit Mills, Dobroyd Mills, Prickledon Mills
- The site provides air quality benefits.
- Scholes has a need for affordable sale units, not affordable rent.
- The applicant's housing needs survey is 'unintelligible for ordinary people' and cannot be fairly commented on. Furthermore, it was based on only 156 responses out of 3000 letters being sent. As such it uses extrapolated data due to insufficient responses. Thus it cannot be accepted.
- The initial consultation by the applicant failed to make it clear the dwellings would be for rental, not affordable purchase.
- Questions over whether these units will be genuinely affordable.
- More attention should be given to preventing Buy To Let and Holiday Homes in the area, instead of new development.
- Kirklees Council don't hold information of housing register applications with a local connection to Scholes, which means the exceptional circumstances for need cannot be demonstrated.
- There are insufficient jobs in Scholes, so future occupiers will have to commute out.
- Affordable rent properties will be occupied by transients who will not invest in the area.
- Ten affordable houses are insignificant and will not really affect demand: it does not justify building in the Green Belt
- The proposal should be 5 to buy and 5 to rent, not 10 to rent. Not all people want to rent and therefore this is not for local need.

Ecology

- The EcIA states that the development 'would not comply with local planning policy' and therefore should be refused.
- The site is ecologically valuable, hosting native flora and fauna including bats and owls.
- The ecological report intends to use land for enhancements outside of the applicant's ownership. The land is playing field and should not be used.

Urban design

- The proposal will harm the rural / urban transition that the site currently provides the village.
- The site is attractive and hosts many trees, the removal of which is a concern.
- The site is attractive and contributes to the setting of the village.

Flooding and drainage

- The site is subject to flooding, which will be made worse, or flood nearby dwellings.
- The local drainage network, including the intended highway drain, is inadequate to accommodate additional water.
- Site clearance will result in flooding.
- The site has suffered from historic flooding and may be considered a functional floodplain. Nearby farms discharge onto it. A flooding incident had circa 30cm deep water on the site. The Government Flood Map webpage shows the site is 'medium risk'.

Highways

- The applicants' plans are wrong, specifically the edge of the road's carriageway. Due to lack of maintenance (contrary to S41 of the Highways Act 1980) the verge has been overgrown (with tarmac below from the old road). The applicant has measured the road from the overgrowth, not the true road width. The correct width of the road cannot be reduced. Therefore, as proposed, the development would reduce the width of the road and have inadequate sightlines.
- The site is on a blind bend with inadequate sightlines.
- The traffic survey was undertaken during school half terms and is therefore not accurate to normal operation and volume of traffic.
- Application 2005/91267 for five homes nearby was refused on Highway grounds: this proposal is the same.
- The local road network, which consists of narrow, winding, and steep roads, cannot accommodate additional traffic. Other developments in the area have already put pressure and inadequate cumulative consideration has been given.
- The proposal will increase parking on local streets and/or the sightlines will prevent parking, to the detriment of existing residents, including those with accessibility / disability concerns.
- Double decker busses occasionally (when their normal route is closed) pass in front of the site, exacerbating highway concerns.
- The Graveship of Holme Enclosure Award (1834) sets standards for the road: any footpaths included in this width can only be one sixth of the road width so as to maintain a carriageway width of between 24 and 25 feet. The effect of this Award is that the Applicant cannot utilise that part of the road between the solid red line and dotted red line on the above Block Plan because it reduces the road width to under 24ft, the road being only 17ft wide at the site entrance where ideally it should be at its widest.
- There is a Public Right of Way crossing the site.

Other

- The land is classified as Public Open Space and is used and valuable to the local community.
- The development will require a car and cannot be considered 'eco' in nature.
- The proposal is contrary to regulations from the Charity Commission / contrary to terms of the Commission Scheme set up in 2009 which the Holme Valley Land Charity took over management from the Parish Council.
- The site is close to spring water used for drinking; the proposal may affect its quality / cause contamination.
- The proposal will conflict with access to neighbouring fields and proposes works to share boundary walls.
- The proposal will not contribute towards local schools which are overprescribed.
- Questions / dispute over landownership.
- Ecohomes have stated they have future plans to explore brownfield and retro-fit old buildings. These options should be explored before a greenfield development.
- Schools and local amenities are overprescribed and cannot take additional users.
- The proposal will result in the loss of farmland which once gone will never come back.
- Members of the Council and committee have personal connections to this application.
- Holme Valley Parish Council have historically objected to development within Scholes on numerous grounds, including intensification of road usage.
- Construction activities will harm the amenity of residents.
- The proposal will cause noise pollution.
- The proposal will harm the amenity of residents through overbearing, overshadowing, and overlooking.
- Render is unattractive and out of keeping with the area, and will degrade over time.
- Past applications on the site have been refused, this one should be too.
- The design of the properties is out of keeping with that of the surrounding area.
- The site is used by children to play.
- The site should be used for community planting / growing, or other public benefit.
- The proposal is contradictory to various policies within the Holme valley Neighbourhood Plan, including policies 10 and 13.

7.9 The site is within Holme Valley South ward. Local ward members were also notified of the proposal. Cllr Paul Davies asked to be kept informed as the application progressed. Jason McCartney MP also requested to be kept appraised of the application's progress.

8.0 CONSULTATION RESPONSES

8.1 Statutory

K.C. Highways: Sought further details initially. Based on additional information, no objection subject to conditions.

K.C. Lead Local Flood Authority: No objection subject to conditions.

Sport England: Expressed initial objection due to the proposed use of neighbouring land identified as a sport pitch for ecological improvement. With that element removed from the proposal, no objection.

8.2 Non-statutory

K.C. Crime Prevention: No objection subject to conditions.

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

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

K.C. Policy: No objection subject to conditions.

K.C. Public Right of Way: Comment that the Council has recently received an application for a Definitive Map Modification Order (DMMO) to add to the Definitive Map and Statement of public rights of way (the DMS) a public footpath through a former quarry – the proposed development site.

K.C. Strategic Housing: Have provided advise on the demand for affordable housing in the area and methods for securing appropriate tenure, given the exemption sought.

K.C. Trees: No objection subject to conditions.

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

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

Residential development within the Green Belt

- 10.2 The NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. All proposals for development in the Green Belt should be treated as inappropriate unless they fall within one of the categories set out in paragraph 149 (buildings) or 150 (other works) of the NPPF, and as built upon within the Local Plan. In this case paragraph 149(f) is considered relevant, where it states:

A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

(f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites);

- 10.3 In regard to the Kirklees Local Plan, LP11 states:

Exceptionally, planning permission may be granted for affordable homes on land which would not normally be permitted for housing development, where there is otherwise little prospect of meeting robustly evidenced local needs particularly for housing to rent by people who work locally. Where appropriate, such schemes must include arrangements for the homes to remain affordable in perpetuity.

Policy 6 of the Holme Valley Neighbourhood Development Plan states:

In addition to the housing sites allocated in the Kirklees Local Plan new housing development will be supported subject to the following considerations being met:

1. The proposed housing is located within existing settlements not overwashed by Green Belt or is for housing acceptable in terms of national Green Belt policy

- 10.4 The Kirklees Local Plan evidence included a Strategic Housing Market Assessment (SHMA) (2016), this concluded that there was an affordable housing need across the district. The gross annual affordable imbalance was 2,511 households per year for the district and in the Kirklees Rural West sub area 329 households per year. The net imbalance when taking account of annual affordable supply is 1049 households per year and 182 in the Kirklees Rural West sub area. This figure includes all affordable housing need, not just rented affordable accommodation.
- 10.5 As a benchmarking exercise the applicant has undertaken an apportionment by dividing the number of households in Scholes (963) by the number in the Kirklees West sub area (31,129) households equalling 3.1%. For comparison purposes, this percentage was compared to the SHMA gross annual imbalance which indicatively shows an annual affordable housing imbalance of 10 households for the Scholes area.
- 10.6 The applicant has provided detailed supporting evidence for this planning application in the form of a Scholes Housing Needs Survey 2021 (September 2021). The study area is that of the built-up area of Scholes (including Hepworth) and the HD9 1 postcode sector. The applicant's housing needs survey concluded that:
- need exists for 33 affordable rented dwellings over the next 5-years after taking supply from existing housing and potential new development into account (Local Plan allocated site HS182) and the proposed development;
 - the need arises from both existing and newly forming households;
 - all size and types of dwellings are needed, with an emphasis on 1 or 2-bedroom dwellings
- 10.7 Planning Policy Officers and the case officer have reviewed the submitted Housing Needs Assessment in depth, along with relevant supporting information from the Local Plan. Ultimately the assessment of such information requires interpretation of data as opposed to seeking definitive answers. In conclusion, officers dispute the applicant's position that a total of 43 affordable rent dwellings are required over the next 5-years within the area. However, based on the merits of this proposal and the specific information provided, it is accepted that sufficient evidence has been provided to demonstrate a need for 10 affordable rent homes does exist. As such, the delivery of these 10 units would comply with the expectations of Policy LP11 and paragraph 149(f) of the NPPF.
- 10.8 Compliance with Policy LP11 of the Local Plan, Policy 6 of the NDP, and paragraph 149(f) of the NPPF is subject to securing a S106 that ensures future occupiers adhere to two tests; that they have a genuine need for affordable housing and meet a local criterion.
- 10.9 Progressing to assessing the proposal's impact on the Green Belt, while the development has been identified as appropriate (subject to the S106), regard must still be given to ensuring no undue impact on the purpose of the Green Belt, and its openness and character Belt.

10.10 The NPPF identifies that the Green Belt serves five purposes, these being:

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Officers are satisfied that the proposal would not contradict any of the above. Specific to b) and c), the site is over circa 390m from Hepworth (circa 490m via road), with open land between and therefore would not materially erode their separation. Regarding e), given the specific nature of the proposal having to be within the Scholes Built up Area, there are no feasible opportunities to facilitate the development on brownfield land.

10.11 On the matter of openness and character, a general assessment of urban design is outlined in paragraphs 10.20 – 10.31. The proposed dwellings are modest in scale and not unreasonably sized within the Green Belt. The proposed excavations ensure the dwellings would not sit uncomfortably high on the land. The design of the dwellings, specifically their front elevations facing Chapelgate and Dean Bridge Lane that will be prominently visible, and their landscaping (inc. boundaries) is fitting for a rural environment. Domestic paraphernalia (bin and cycle store) is kept to a reasonable minimum and is screened by the dwellings, limiting its prominence.

10.12 The proposal includes the erection of a 1.8m high paladin mesh fencing along the west boundary. While officers have expressed concern over the inclusion of such a fence, the applicant has stressed the need from a safety perspective. It would prevent access to the acknowledged very steep retaining wall (that includes a 2m drop onto hard surface). Given that fences up to 2m may be erected without planning permission (when away from the Highway) and the need to ensure safety, on balance its inclusion is not unacceptable.

10.13 Officers sought confirmation from the applicant that the retaining works were kept to the minimum required to deliver the development, which was demonstrated. Nonetheless, amendments were secured through the application to change the main rear retaining wall to 2m gabion baskets, topped by sloped land secured by soil rock nailing that will be grassed. This soft design would ensure that the required solid retaining works are kept modest and overall, visually appropriate for the setting.

10.14 The proposal has been identified as appropriate development within the Green Belt, subject to a S106 securing these units as affordable and for local people, in perpetuity, in accordance with Policy LP11 of the Local Plan, Policy 6 of the Neighbourhood Development Plan, and paragraph 149(f) of the NPPF. Furthermore, the development would not unduly affect

Sustainable development and climate change

10.15 As set out at paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF goes on to provide commentary on the environmental, social and economic aspects of sustainable development, all of which are relevant to planning decisions.

- 10.16 Policy 12 of the NDP sets out requirements for development in terms of renewable energy, energy efficiency, and sustainable living.
- 10.17 The application is supported by a Climate Change Statement, with the following overview provided within the Design and Access Statement:

The project is targeting a high level of sustainability for the proposed development. Based on current best practice the scheme will look to achieve the following:

- *Low Energy & Carbon in Use*
- *Low Levels of Embodied Carbon*
- *Significant Reduction Vs. Current Building Regulations*

The team seek to achieve this using the following strategies:

Fabric First Design Targeting Passivhaus Levels of Performance

- *Mechanical Heat Recovery Ventilation ('MVHR')*
- *High levels of air tightness (below Part L standards)*
- *High levels of thermal insulation*
- *Enhanced glazing solutions*
- *Highly efficient building massing*
- *Thermal bridging minimised*
- *Modelled in Passivhaus Planning Package (PHPP) to minimise the performance gap*

Low Carbon Heat

- *Targeting no on-site carbon use*
- *Full electric heat and hot water using low carbon technologies*
- *Use of Air Source Heat Pumps*

On Site Use of Renewable & Energy Efficiency

- *Electric Car Charging*
- *Solar Photovoltaic Panels to Generate Electricity*
- *100% low energy LED lighting*

Low Embodied Carbon

- *Use of prefabricated timber frame construction*
- *Pre-insulated external wall panels and internal partitions, with floor cassettes to the first floor will be used*
- *The building shell will be manufactured off site.*
- *Analysis in line with RICS guidance*
- *Targeting circa 300 kg/m² carbon inline with RIBA 2030 guidance*

Water Saving

- *All dwellings will be provided with connected 200l water butts so as to reduce water use in the garden.*
- *All fittings internally will be low flow / restricted in line with latest Part L guidance.*

- 10.18 The above provisions are welcomed and would contribute towards securing a sustainable, low carbon development as required by Policy 12 of the NDP. A condition is recommended requiring the provisions of the Climate Change Statement to be implemented (and thereafter retained), along with a Post Construction Report to demonstrate they have been achieved.
- 10.19 Further to the above, measures would be necessary to encourage the use of sustainable modes of transport. Adequate provision for cyclists (including cycle storage and space for cyclists), electric vehicle charging points, and other measures have been proposed or would be secured by condition (referenced where relevant within this assessment). Drainage and flood risk minimisation measures would need to account for climate change. These factors will be considered where relevant within this assessment.

Urban Design

- 10.20 Relevant design policies include LP2 and LP24 of the Local Plan and Chapter 12 of the National Planning Policy Framework. These policies seek for development to harmonise and respect the surrounding environment, with LP24(a) stating; 'Proposals should promote good design by ensuring: the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape'.
- 10.21 Further to the Local Plan, the site falls within the Holme Valley Neighbourhood Development Plan (NDP) area. Policy 1 requires developments to demonstrate they've been designed with regard to the relevant Local Character Area. The site is within LCA8, Settled Slopes of the Holme Valley Upper slopes of the River Holme and New Mill Dike. The area is identified as follows;

Settlement is generally sparse with four notable settlements at Scholes, Totties, Wooldale and Fulstone. Totties, Wooldale and Fulstone are former agricultural and weaving villages and have Conservation Areas. Isolated dwellings and farm properties are located on the wider valley sides. The hilltop hamlet of Fulstone is also a former coal mining settlement with largely traditional style dwellings in a nucleated layout and most dwellings are constructed of local millstone grit with grey slate roofs. There is modern residential development at Scholes and Wooldale.

- 10.22 NDP Policy 2 'sets out expectations for development to comply with, including development strengthening the local sense of place and having design respect that evident in the locality. Policy 5 has the requirement for development next to 'gateways' into settlements to include consideration should be given to public realm improvements around the gateway, including signage and landscaping.

- 10.23 The density of the development appears as an appropriate response to the site, being neither unduly cramped nor ineffectively sparse. The layout of the dwellings, in two terrace rows fronting the road with appropriate setback, is appropriate to the local character. Having gardens to the front of terraces is not unusual, and while these will be the 'main' amenity areas of the dwellings this will not be visually apparent from the casual observer due to the low boundary treatment (securable via condition). It is recommended to remove Permitted Development rights for other forms of fencing between the dwellings and roads, to prevent taller fencing that would be out of keeping being erected.
- 10.24 The scale of the dwellings, both their footprint and heights, are typical of properties in the area. Double pitched roofs, with one front facing gable per five for visual interest, is attractive and again harmonises with the area. In terms of architectural detailing, officers sought to ensure the front elevations facing the road had traditional designs that reflect the appearance of older properties in the village: this has been secured and is welcomed. This includes the use of natural stone and slate roofing, which may be secured via condition. The rear elevations, facing into the site, include render at first floor level and windows with a modern design. This is not opposed, as this divergent design is not unattractive in itself and would have limited visibility in the wider area, so would not contribute to the dwellings appearing incongruous.
- 10.25 Permitted Development rights do not allow extensions, outbuildings or dormers to the 'front' of the properties. As there is some ambiguity and potential for argument over what is the definitive 'front' of these units, it is considered judicious to remove all PD rights for outbuildings and extensions from these units, to avoid the potential for extensions or outbuildings between the dwellings and the highway. This is in the interest of visual amenity.
- 10.26 Regarding landscaping and external works, the car parking is grouped to the rear of the site. While this would result in a larger area of hard surfacing, it will be well screened by the dwellings and adjacent retaining wall. It will be surrounded by attractive landscaping, and would have minimal impact on the wider area, so is not opposed. Retaining walls have been touched upon in paragraph 10.13, where their design was considered acceptable. A condition is however recommended requiring the retaining walls to be erected in accordance with the approved details is recommended. (management / maintenance of the planting on the soil rock nailing will be covered in a site wide landscape management and maintenance strategy).
- 10.27 On boundary treatment, external boundary treatments are to be low (900 – 1100mm) natural drystone walls, which is a high-quality feature representative of design in the area. Garden dividers would be timber fencing, which is considered an appropriate material for the function and not unusual within the area. In regards to the 1.8m paladin mesh fencing along the west boundary, as noted in paragraph 10.12 This is a negative of the proposal, however as planning permission is not required to erect such a feature and it will provide safety benefits, on balance its inclusion is accepted. Alternatives were considered, but it is expected that a mesh fencing will be less visible from medium and long distances compared to a solid timber one.

- 10.28 Regarding the landscaping, the details provided demonstrate that an attractive planted environment would be achieved. Numerous trees on site would be removed, however given their state and health they are not considered by officers and K.C. Trees to be of high amenity value. The soft landscaping proposals show a reasonable number of new trees (28, extra heavy standards) and shrubs being introduced to the site which appear well placed given its relatively small size, which is positive. A condition requiring the landscaping being implemented prior to occupation is recommended, along with a condition for a detailed landscape management and maintenance strategy.
- 10.29 By virtue of the good design the proposal will effectively blend into the existing built environment, while being sensitive to the site's edge of
- 10.30 Policy 5 of the NDP requires consideration of public realm improvements around the gateway, including signage and landscaping. The provision of a new village sign has been agreed by the applicant, to be sited on Dean Bridge Lane. Exact details, including siting and appearance, may be secured via condition. The proposal also includes the provision of a new footpath at the village entrance and planting alongside it.
- 10.31 In summary, it is accepted that the proposed works would notably change the character and appearance of the site, while being visible from long vistas within the valley and opposite valley side. Nonetheless, the proposed development is considered to be well designed to a high standard. While including atypical design elements, these do not define or dominate the proposal. Accordingly, the proposal is deemed to comply with the aims and objectives of Policies LP2 and LP24 of the KLP, Policies 1, 2 and 5 of the NDP, and Chapter 12 of the NPPF.

Residential Amenity

- 10.32 Local Plan policy LP24 requires developments to provide a high standard of amenity for future and neighbouring occupiers, including by maintaining appropriate distances between buildings.
- 10.33 Existing residential properties are located to the north, east, and west of the site. The properties to the east (White Wells) and west (no. 67 Chapelgate (aka The Bungalow)) have side elevations, hosting windows, facing the site. The windows in question appear to either serve non-habitable rooms or are secondary windows to habitable rooms. Regardless of the specific nature of the windows, there is considered to be adequate separation distance between the properties to the side and the proposed dwellings to prevent concerns over overlooking, overbearing, and overshadowing. The property to the north (no. 19 White Wells Road) is in excess of 27m from the new units and there are likewise no concerns over the relationship. All separation distances comply with the minimums outlined within the Council's Housebuilders Design Guide.
- 10.34 A condition requiring the submission and approval of a Construction (Environmental) Management Plan (C(E)MP) is recommended. The necessary discharge of conditions submission would need to sufficiently address the potential amenity impacts of construction work at this site, including cumulative amenity impacts should other nearby sites be developed at the same time. Details of dust suppression measures would need to be included in the C(E)MP. An informative regarding hours of noisy construction work is recommended.

- 10.35 In summary, officers are satisfied that the development would not materially prejudice the amenity of existing neighbouring dwellings. Consideration must also be given to the amenity of future occupiers and the quality of the proposed units.
- 10.36 The sizes of the proposed residential units are a material planning consideration. Local Plan policy LP24 states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, and the provision of residential units of an adequate size can help to meet this objective. The provision of adequate living space is also relevant to some of the council's other key objectives, including improved health and wellbeing, addressing inequality, and the creation of sustainable communities. Recent epidemic-related lockdowns and increased working from home have further demonstrated the need for adequate living space.
- 10.37 Although the Government's Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's Housebuilder Design Guide SPD. NDSS is the Government's clearest statement on what constitutes adequately-sized units, and its use as a standard is becoming more widespread – for example, since April 2021, all permitted development residential conversions have been required to be NDSS-compliant.

House Type	Number of units	Proposed (GIA, m ²)	NDSS (GIA, m ²)
2b4p Home	7	79sqm	79sqm
2b4p Home Part M4(3)	1	91sqm	79sqm
3b4p Home	2	88.4sqm	84sqm

- 10.38 All units meet or exceed the NDSS minimums. All would have well-proportioned habitable rooms, that are served by suitably sized windows that provide a clear outlook.
- 10.39 The units would not have traditional private amenity space (i.e., enclosed rear gardens). The primary external amenity space for each unit would front onto Chapelgate and Dean Bridge Lane and, due to facing the public realm, is not to have high fencing (securable via condition). As noted in the design section high fencing here would be unattractive and detrimental to design. Nonetheless, this is not considered a cause for concern. The garden sizes are considered acceptable and residents would also have access to the development's communal open space (not to be publicly accessible Public Open Space). In terms of privacy, the site is in the rural setting and not heavily trafficked. Ultimately the development has a more communal orientated design that would not unduly prejudice the amenity of future occupiers.
- 10.40 To summarise, the proposed development is considered not to be detrimental to the amenity of neighbouring residents. Furthermore, the proposal would secure an acceptable standard of amenity for future residents. Subject to the proposed conditions, the proposal is deemed to comply with LP24 of the Kirklees Local Plan.

Highway

- 10.41 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development would normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.
- 10.42 Paragraph 108 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 109 of the NPPF adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.
- 10.43 First considering traffic generation, ten dwellings would produce limited traffic movements. The volume of traffic would have no material impact on local junctions or road capacity.
- 10.44 Progressing to the internal road arrangements, the submitted road layout details and Stage 1 Road Safety Audit have been reviewed by K.C. Highways, who considered there to be no prohibitive reason preventing a scheme for adoption being brought forward at S38 stage. It is deemed to comply with the standards of the Highways Design Guide SPD. Full technical details of the new access road, to an adoptable standard, are to be sought via condition
- 10.45 Currently there is no footpath along the site frontage nor on the opposite side of either Chapelgate or Dean Bridge Lane. The proposed footpath would be a minimum of 2m in width. This provision would provide an improvement to pedestrian movements, which is welcomed, and also secure the access's sightlines for the ten dwellings. However, representations have been received which call into question the access sightlines and the accuracy of the plans. It has been stated (summarised):
- *The applicants' plans are wrong, specifically the edge of the road's carriageway. Due to lack of maintenance (contrary to S41 of the Highways Act 1980) the verge has been overgrown (with tarmac below from the old road). The applicant has measured the road from the overgrowth, not the true road width. The correct width of the road cannot be reduced. Therefore, as proposed, the development would reduce the width of the road and have inadequate sightlines.*

These concerns have been discussed with K.C. Highways, who state:

it is impossible to determine the exact width of the highway due to the overgrown verges. However, it is possible that the carriageway width adjacent to the proposed site access may have been circa 5.5m wide at some point. Potential evidence for this is the centre line marking in the road, which should only normally be provided on roads where the

carriageway is a minimum of 5.5m wide. Based on my check of the applicants drawing, the adjacent carriageway width appears to narrow to circa 4.9m within the vicinity of the access. This narrowing appears to be due to some overgrowth of the verges on both sides of the carriageway (but mainly on the site side).

- 10.46 The applicant has been asked to consider this and an update is to be provided within the update to members. Nonetheless, resolving this matter is not considered a fundamental issue. K.C. Highways are satisfied that the plans and sightlines may be amended to address this with minimal impact. If not resolved prior to the meeting, could be adequately controlled via a planning condition. To ensure confidence this has been drafted for review, as follows:

Prior to commencement of the development, a detailed scheme for the site access and associated work shall be submitted to and approved in writing by the Local Planning Authority, with the works including the following:

- *Cutting back of highway verges and carriageway widening to ensure a minimum 5.5m carriageway width passed the site access;*
- *5.5m wide carriageway site access, with minimum 2m wide footways on entry to the site;*
- *Junction visibility splays of 2.4x33m to the east and 2.4x39m to the west of the site access;*
- *Minimum 2m wide footway along the site frontage, with dropped kerbs at the site access and at the end of the new footway with suitable pedestrian sightlines.*

The scheme shall include construction specifications, white lining, signing, drainage, lighting and surface finishes, together with an independent Safety Audit covering all aspects of the work. Unless otherwise agreed in writing by the LPA, all of the agreed works shall be implemented before any part of the development is first brought into use.

Reason: *In the interests of highway safety and to achieve a satisfactory access to the site to accord with Policy LP21 of the Kirklees Local Plan.*

- 10.47 This condition would secure acceptable sightlines, arrangements for the access and footway.
- 10.48 Parking is to be delivered in a 'parking court' style. Parking spaces detached from the dwellings is not opposed and none of the parking spaces are unreasonably distant from the dwellings and would be well overlooked. In terms of number, 23 are proposed. This is sufficient for the dwellings (10 x 2 per unit) plus 3 visitor parking spaces. This level accords with the Highways Design Guide SPD
- 10.49 Swept path analysis has been provided which demonstrates acceptable turning arrangements for refuse vehicles within the site. A communal waste storage and collection shed is proposed. Given the specifics of the layout individual bin storage would likely be prominently visible, either from within the site or from outside. Therefore, the communal arrangement is welcomed as an effective way to manage the development's waste.

- 10.50 In terms of sustainable travel, the site would be on the edge of Scholes and have access to local amenities including bus stops, Scholes Cricket Club, Scholes Junior & Infant School, Scholes Methodist Church. A new footway would be proposed to promote walking and all units would have access to a cycle store (securable via condition). The scale of development falls below the threshold for requiring a travel plan. Nonetheless, given its location the site is deemed a suitable sustainable location.
- 10.51 Given the scale and nature of the development officers recommend a Construction Traffic Management Plan (CTMP) be secured via condition. This is to ensure the development does not cause harm to local highway safety and efficiency. This would be required pre-commencement, given the need to ensure appropriate measures from the start of works. K.C. Highways DM have also advised that a 'highway condition survey' be undertaken, via condition. This would include a review of the state of the local highway network before development commences and a post completion review, with a scheme of remediation works to address any damage attributed to construction traffic. This request is considered reasonable and a condition is proposed by planning officers.
- 10.52 Concluding on the above, subject to the given conditions officers and K.C. Highways are satisfied that the proposal would not harm the safe and effective operation of the highway, in compliance with Policy LP21 of the Kirklees Local Plan and Policy 6 of the NPD.

Public Rights of Way

- 10.53 There are no currently recorded Public Rights of Way Definitive Map on or around the site. However, the Council has recently received an application for a Definitive Map Modification Order (DMMO) to add to the Definitive Map and Statement of public rights of way (the DMS) a public footpath through the proposed development site.
- 10.54 The claimed route commences at the existing entrance at the junction of Scholes Road / White Wells Road / Chapelgate and runs in a generally south easterly direction across the floor of the quarry towards the south end of the site. The claimed route climbs out of the quarry area and beyond the red line boundary before splitting in two where it passes through a wooded area, the two routes then heading in a generally north westerly direction over Council owned playing fields to Oak Scar Lane.
- 10.55 The route of the alleged public right of way, as indicated on the plan accompanying the DMMO application, is in direct conflict with multiple elements of the proposed development, including plots 2, 3, and 4 in Block A.
- 10.56 Notwithstanding this, limited weight may be attributed to an application for a Definitive Map Modification Order (DMMO) and any claimed path as part of this application, particularly one at such an early stage of an assessment and until such a time it is formally accepted and entered onto the Definitive Map. Planning applications must be assessed against their own merits and against material planning considerations at the time and as it stands the DMMO application is at an early stage and must carry limited weight.

- 10.57 In the event that this application is approved, after which the DMMO is approved, it would be a private matter for the applicant to resolve. The granting of planning permission (or the commencement of development) would have no effect on the legal existence of any public footpath(s). It would be for the applicant to either retain the PROW through not developing and/or seeking to vary their permission, or apply to stop or divert the PROW. A note to this effect, explaining the potential consequences, may be placed on the decision notice.

Drainage

- 10.58 The site is within Flood Zone 1 and is less than 1ha in size. Therefore, a site-specific Flood Risk Assessment is not required. However, a Surface Water Drainage Strategy is required and has been provided.
- 10.59 It is proposed to discharge surface water off-site, by gravity at an attenuated rate of 3.0 l/s, to local watercourse Dean Dyke (via existing highway drain). Due regard has been given to the drainage hierarchy in selecting this discharge point. Attenuation storage is proposed to be provided to ensure no flooding for the critical 1 in 100-year rainfall event (plus 30% climate change).
- 10.60 The submitted drainage details have been reviewed by the LLFA and are considered to be acceptable in principle. Some technical points, such as the type of attenuation tank, have raised concern but the LLFA and officers are satisfied that this may be considered further and addressed via a suitably worded condition. Another condition to demonstrate surface water exceedance planning is also recommended.
- 10.61 Residents have raised concerns over flooding on the site, with images shared of water on the site. They have also raised that the site is at 'medium risk' from surface water flooding. The government's guidance on medium risk states:

Medium risk means that this area has a chance of flooding of between 1% and 3.3% each year. Flooding from surface water is difficult to predict as rainfall location and volume are difficult to forecast. In addition, local features can greatly affect the chance and severity of flooding.

Please note that 'medium risk' from surface water is distinct from Flood Zones (to reiterate, this site is within Flood Zone 1) which relate to flooding from watercourses. These concerns are noted but may be attributed to the site's history. As a quarry the land would have been excavated to below the surrounding / natural ground level and closer to the water-table / bedrock. Furthermore, it has been shaped to form a rough basin. Therefore, water gathering during intense rain, neither being able to effectively discharge into the ground or exit the site, would lead to ponding. As part of the proposal the hard surfacing would be positively drained, soft areas vegetated, and the ground shaped to avoid basins. The proposed surface water strategy seeks to collect water entering the site into the subterranean attenuation tank and discharged slowly (3l/s) into the existing off-site drainage infrastructure. Residents state that the infrastructure cannot cope, however Yorkshire Water have neither recorded this nor objected to the proposal. In the unlikely event of an exceedance event (i.e., where the drainage infrastructure cannot capture the water entering the site quick enough) a flood routing plan is to be provided to demonstrate water flowing away from domestic properties and onto the highway as intended.

- 10.62 Foul water is to be discharged to a foul sewer on Chapelgate, which is acceptable. Yorkshire Water offer no objection to either the surface water or foul drainage proposals.
- 10.63 The maintenance and management of the approved surface water drainage system (until formally adopted by the statutory undertaker) would need to be secured via a Section 106 agreement. Details of temporary surface water drainage arrangements, during construction, are proposed to be secured via a condition.
- 10.64 Considering the above, subject to the proposed conditions and securing management and maintenance arrangements via the S106, the proposal is considered by officers and the LLFA to comply with the aims and objectives of policies LP28 and LP29 of the LP and Chapter 14 of the NPPF.

Other Matters

Air quality

- 10.65 The development is not in a location, nor of a large enough scale, to require an Air Quality Impact Assessment.
- 10.66 Notwithstanding the above, in accordance with government guidance on air quality mitigation, outlined within the NPPG and Chapter 15 of the NPPF, and local policy contained within LP24(d) and LP51 and the West Yorkshire Low Emission Strategy Planning Guidance seeks to mitigate Air Quality harm. Given the scale and nature of the development officers seek the provision of electric vehicle charging points, one per dwelling, on new development that includes car parking. The purpose of this is to promote modes of transport with low impact on air quality.
- 10.67 Subject to a condition requiring this provision, the proposal is considered to comply with LP24(d) and LP51 of the Local Plan.

Contamination

- 10.68 All major residential developments are expected to investigate ground contamination. Furthermore, as a former quarry, there is a potential from contamination from past use.
- 10.69 The applicant has submitted Phase 1 and Phase 2 ground investigation reports which have been reviewed by K.C. Environmental Health. The Phase 1 has been accepted; however, the phase 2 has not due to insufficient details on gas monitoring. Nonetheless, this would not form a prohibitive issue for development. Accordingly, Environmental Health recommend conditions relating to further ground investigations. Subject to the imposition of these conditions' officers are satisfied that the proposal complies with the aims and objectives of LP53.

Crime Mitigation

- 10.70 The Designing Out Crime officer has made a number of comments and recommendations, particularly with regards to home security, rear access security and boundary treatments. All of the comments made are advisory and have been referred to the applicant, with many incorporated into the proposal during the amendments.
- 10.71 The Designing Out Crime officer acknowledges that the boundary treatments do not meet typical Secure by Design recommendations (being low, between 900 – 1100mm). However, due to the nature of the development and low crime rate in the area they offer no objection. However, they advise a condition for security measures for the car parking area be secured. This is supported by officers.

Ecology

- 10.72 An ecological assessment has been submitted with the application. The ecological assessment provides a comprehensive assessment of the site and its ecological receptors. The habitats present within the site are determined to be of low ecological value, except for the presence of an area of species rich grassland, in the western section of the site.
- 10.73 The development proposals will result in the loss of the majority of habitats present on site, aside from the area of species rich grassland, which is due to be retained and enhanced. The habitats present within the site provide suitability for nesting bird and as such. For bats, the site hosts no features suitable for roosting although the habitats are suitable for foraging. Impacts on other species have been considered and discounted.
- 10.74 Invasive non-native species including buddleia *Buddleia davidii*, Japanese rose *Rosa rugosa* (target note 5, photo 8) and a *Cotoneaster* species (target note 6, photo 9) are present on site. Therefore, a condition for an invasive species management plan is recommended, to avoid spreading invasive species.
- 10.75 A Biodiversity Net Gain assessment has been undertaken for the proposed on-site works. The development proposals in their current form would result in a decrease of 0.68 habitat units (-53.91%). Therefore, in line with the Kirklees Biodiversity Net Gain Technical Advice Note, in order to offset the loss of habitats within the site, off-site compensation will need to be secured, through either provision within the area (of 0.8 habitat units, after factoring in 10% gain), an off-site contribution (£18,538) or a mixture of the two. This requirement may be secured within the S106.
- 10.76 To manage the impacts to local species the following conditions are considered necessary to ensure no harm and provide an enhancement;
- invasive species management plan
 - an Ecological Design Strategy (including management and maintenance details) to demonstrate how the 0.68 habitat units will be delivered on site, to include; five bat boxes, five bird boxes, five log piles, provision of hedgehog holes in garden boundaries
 - a lighting designs strategy, to ensure lighting does not affect

- restrict site clearance to outside of bird breeding season (unless appropriate surveys are undertaken)
- Construction Environmental Management Plan: Biodiversity (CEMP: Biodiversity), to ensure temporary construction processes are appropriately managed.

10.77 Subject to the given conditions and securing the off-site ecological contribution, the proposal is considered to comply with the aims and objectives of LP30 of the Kirklees Local Plan and Policy 13 of the NDP.

Representations

10.78 The following are responses to the matters raised within the public representations received, which have not been previously addressed within this assessment.

Green Belt

- Infill development in the Green Belt should be no more than 1 or 2 dwellings.

Response: The proposal is not seeking infill development (NPPF paragraph 149(e)), which it would not be considered. The proposal seeks rural exception under paragraph 149(g).

- The pre-application engagement by the applicant failed to mention that the land was Green Belt.

Response: This is noted, although has not been verified by officers. Nonetheless it does not affect officers' assessment of the proposal's planning merits.

- There are no very special circumstances associated with this development to justify building within the Green Belt.

Response: As the proposal has been found to be appropriate development, under paragraph 149(g), very special circumstances are not required.

- This is Green Belt land which was gifted to local people.

Response: The matter of this land being gifted, and any stipulations / covenants that may have held is a private matter for the land owner and not material to this application.

Affordable housing and need

- The housing will not be for local people, it'll have to be open to all people on the Council's Housing List. A planning condition would be insufficient to police the matter.
- Limiting occupation of the units to local people only is assumed to be against the Council's Housing Association Policy.
- Kirklees Council don't hold information of housing register applications with a local connection to Scholes, which means the exceptional circumstances for need cannot be demonstrated.

Response: The S106 agreement will be used to ensure that these units are occupied by those fitting a locality criterion. Discussions are ongoing whether the site will be advertised using the Housing List or another method.

- Local action group Save Our Scholes Green Belt undertook a local survey on whether residents wanted development in Scholes. In total 176 responses were received (82% living within Scholes). In summary 90% of participants do not feel that building affordable homes on the site is the best use of the land and 78 believe the Green Belt should not be built on at all. 67% of responses wanted the site to be used as community green space.

Response: The content of this report has been discussed between the case officer and K.C. Policy. While its content and findings are noted, ultimately the questions and data it contains don't invalidate the applicant's submission. It does not seek to establish whether there is a need for affordable units, but what people would like to see on this land and people's views on building on the Green Belt. The applicant's Housing Needs Study seeks to demonstrate need for housing in the area using local surveys and housing data.

- There are no details on the proposed sale / rent values of these properties to prove they would be 'affordable'.
- Questions over whether these units will be genuinely affordable.

Response: The requirement for these units to be affordable, in accordance with the relevant definition and legislation, will be secured within the S106 agreement. Regarding the value, it would not be typical for such figures to be provided at such an early stage, and will be reached depending on market conditions at the time of let.

- The applicant has failed to explore brownfield sites as alternative options. These include Washpit Mills, Dobroyd Mills, Prickledon Mills.

Response: These brownfield sites are noted, but are outside of the study area (Scholes). Also, they are notably larger than the site (to deliver 10 units) and therefore cannot be directly compared.

- The initial consultation by the applicant failed to make it clear the dwellings would be for rental, not affordable purchase.

Response: This is noted, but has not been verified by planning officers. Nonetheless it does not materially affect the assessment undertaken.

- More attention should be given to preventing Buy To Let and Holiday Homes in the area, instead of new development.

Response: This is ultra vires to the planning system and this application.

- There are insufficient jobs in Scholes, so future occupiers will have to commute out.

Response: This is not considered material to the application; while the local need will include those who work in Scholes it is not wholly dependant upon it.

- Affordable rent properties will be occupied by transients who will not invest in the area.

Response: This comment carries no material planning weight.

- Ten affordable houses are insignificant and will not really affect demand: it does not justify building in the Green Belt
- The proposal should be 5 to buy and 5 to rent, not 10 to rent. Not all people want to rent and therefore this is not for local need.

Response: This application is assessed on its own merits, with the units being affordable rent. The provision of 10 affordable rented units is welcomed to address an acknowledged need.

Ecology

- The EcIA states that the development 'would not comply with local planning policy' and therefore should be refused.

Response: This quote is without context. In effect, it says without mitigation the proposal would be against policy. However adequate mitigation and net gain provisions are to be secured.

- The ecological report intends to use land for enhancements outside of the applicant's ownership. The land is playing field and should not be used.

Response: This element of the proposal has been removed. The applicant will be required to demonstrate net gain on land under their control or provide the financial contribution.

Flooding and drainage

- The site is subject to flooding, which will be made worse, or flood nearby dwellings.
- The local drainage network, including the intended highway drain, is inadequate to accommodate additional water.
- Site clearance will result in flooding.
- The site has suffered from historic flooding and may be considered a functional floodplain. Nearby farms discharge onto it. A flooding incident had circa 30cm deep water on the site. The Government Flood Map webpage shows the site is 'medium risk'.

Response: The above comments are considered in depth within paragraphs 10.58 – 10.64.

Highways

- The site is on a blind bend with inadequate sightlines.
- The applicants' plans are wrong, specifically the edge of the road's carriageway. Due to lack of maintenance (contrary to S41 of the Highways Act 1980) the verge has been overgrown (with tarmac below from the old road). The applicant has measured the road from the overgrowth, not the true road width. The correct width of the road cannot be reduced. Therefore, as proposed, the development would reduce the width of the road and have inadequate sightlines.

Response: This is considered in depth in paragraphs 10.45 – 10.47.

- The traffic survey was undertaken during school half terms and is therefore not accurate to normal operation and volume of traffic.

Response: The speed survey was undertaken on 23/02/22, with 100 vehicles recording in each direction. Whilst this survey was undertaken during school half term, as the data is only being used for speed assessment purposes (and not traffic capacity assessment, where lower school holiday flows may have been a material consideration), it is still considered to be representative. As such, the speed survey data that has been utilised is acceptable by HDM.

- Application 2005/91267 for five homes nearby was refused on Highway grounds: this proposal is the same.

Response: Each application is assessed on its own merits. The reasons for refusal on 2005/91267 related to its layout and impact on the highway. The proposals layout is deemed acceptable and therefore 2005/91267's reasons are not deemed pertinent to this application.

- The proposal will increase parking on local streets and/or the sightlines will prevent parking, to the detriment of existing residents, including those with accessibility / disability concerns.

Response: The proposal is served by a policy compliant level of parking, therefore is not expected to cause on-street parking. The sightlines cross only a single existing property that benefits from off-street parking. Nonetheless, it is accepted that vehicles may park across the sightlines which cannot be reasonably controlled outside of the Highway Code.

- Double decker busses occasionally (when their normal route is closed) pass in front of the site, exacerbating highway concerns.

Response: The presence of busses does not affect officers' assessment.

- The Gravesham of Holme Enclosure Award (1834) sets standards for the road: any footpaths included in this width can only be one sixth of the road width so as to maintain a carriageway width of between 24 and 25 feet. The effect of this Award is that the Applicant cannot utilise that part of the road between the solid red line and dotted red line on the above Block Plan because it reduces the road width to under 24ft, the road being only 17ft wide at the site entrance where ideally it should be at its widest.

Response: Concerns relating to the road width and plan accuracy are addressed within paragraph 10.45 – 10.47.

The proposal includes a footway that will partly encroach into the applicant's land and become part of the highway. Therefore, the highway would not be reduced in width, but increased. The Highway consists of the carriageway and footway. While the width of a highway cannot typically be reduced The Highways Act 1980 enables a highway authority to vary the respective width of the carriageway and footway within a highway.

Other

- The land is classified as Public Open Space and is used and valuable to the local community.

Response: The source of the claimed 'public open space' status is unknown. It is not a formal planning designation or allocation.

- The proposal is contrary to regulations from the Charity Commission / contrary to terms of the Commission Scheme set up in 2009 which the Holme Valley Land Charity took over management from the Parish Council.
- The proposal will conflict with access to neighbouring fields and proposes works to share boundary walls.
- The proposal will not contribute towards local schools which are overprescribed.
- Ecohomes have stated they have future plans to explore brownfield and retro-fit old buildings. These options should be explored before a greenfield development.
- Holme Valley Parish Council have historically objected to development within Scholes on numerous grounds, including intensification of road usage.
- The site should be used for community planting / growing, or other public benefit.

Response: This above are either private matters for the applicant and/or are not material planning considerations.

- Questions / dispute over landownership.

Response: No evidence to support this claim has been provided to enable officers to question the application's validation status.

- The site is close to spring water used for drinking; the proposal may affect its quality / cause contamination.

Response: Contaminated land and remediation conditions are proposed.

- Schools and local amenities are overprescribed and cannot take additional users.

Response: There is no Policy or supplementary planning guidance requiring a proposed development to contribute to local health services. However,

Kirklees Local Plan Policy LP49 identifies that Educational and Health impacts are an important consideration and that the impact on health services is a material consideration. As part of the Local Plan Evidence base, a study into infrastructure has been undertaken (Kirklees Local Plan, Infrastructure Delivery Plan 2015). It acknowledges that funding for GP provision is based on the number of patients registered at a particular practice and is also weighted based on levels of deprivation and aging population. Therefore, whether additional funding would be provided for health care is based on any increase in registrations at a practice. Regarding schools, Local Planning Authority do not seek education contributions for proposals under 25 units.

- The proposal will result in the loss of farmland which once gone will never come back.
- Members of the Council and committee have personal connections to this application.

Response: This is not a material planning consideration: such concerns should be presented to the Council's Governance Team.

- Past applications on the site have been refused, this one should be too.
- The site is used by children to play.

Response: While this is noted, the land holds no designation or allocation in planning policy to offer protection relating to play.

11.0 CONCLUSION

- 11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.2 The application site is allocated as Green Belt where most forms of development are inappropriate. However, the applicant has demonstrated sufficient need for local, affordable homes in accordance with exemption policies contained within the Local Plan, Neighbourhood Development Plan, and National Planning Policy Framework. The provision of these units as affordable and for local occupiers, in perpetuity, may be secured via condition. Therefore, the principle of development is acceptable.
- 11.3 In terms of the local impact, the dwellings are well designed and would be an attractive contribution to the area. Potentially out of keeping elements, including the retaining structures to the rear, have been effectively designed to have minimal impact and would not cause material harm. The proposal would not harm the amenity of neighbouring 3rd parties, and secure a good standard of amenity for future occupiers. Other material considerations, including Highways, Ecology, and Drainage amongst others, have been considered and found not to be unduly harmed.
- 11.4 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval, subject to conditions and planning obligations to be secured via a Section 106 agreement.

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

1. Three years to commence development.
2. Development to be carried out in accordance with the approved plans and specifications
3. Boundary treatments to be installed as detailed, and thereafter retained.
4. Materials samples, to include natural stone and slate, to be provided.
5. Remove PD rights for extensions, outbuildings, and dormers.
6. Retaining walls erected as per approved plans.
7. Landscaping to be done in accordance with plan
8. Landscaping management and maintenance plan to be provided.
9. Details of new village sign, to be provided and retained.
10. Construction Environmental Management Plan (CEMP)
11. Road to adoptable standard
12. Access, Sightlines, Footpath to acceptable standards
13. Cycle stores to be provided
14. Construction Traffic Management Plan (CTMP)
15. Road Condition Survey
16. Drainage strategy
17. Flood routing strategy
18. Temporary drainage strategy for construction
19. Car parking crime mitigation measures
20. 1 EVCP per dwelling
21. Contaminated land investigations
22. invasive species management plan
23. an Ecological Design Strategy (including management and maintenance details) to demonstrate how the 0.68 habitat units will be delivered on site, to include; five bat boxes, five bird boxes, five log piles, provision of hedgehog holes in garden boundaries
24. a lighting designs strategy (ecology)
25. restrict site clearance to outside of bird breeding season (unless appropriate surveys are undertaken)
26. Construction Environmental Management Plan: Biodiversity (CEMP: Biodiversity)

Background Papers

Application and history files

Available at:

[Planning application details](#)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022%2f92406>

Certificate of Ownership

Certificate B signed.

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Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 02-Mar-2023

Subject: Planning Application 2022/93342 Demolition of existing building and erection of engineering building with associated external works David Brown Santasalo UK Ltd, Park Works, Park Road, Lockwood, Huddersfield, HD4 5DD

APPLICANT
DAVID BROWN
SANTASALO

DATE VALID
24-OCT-2022

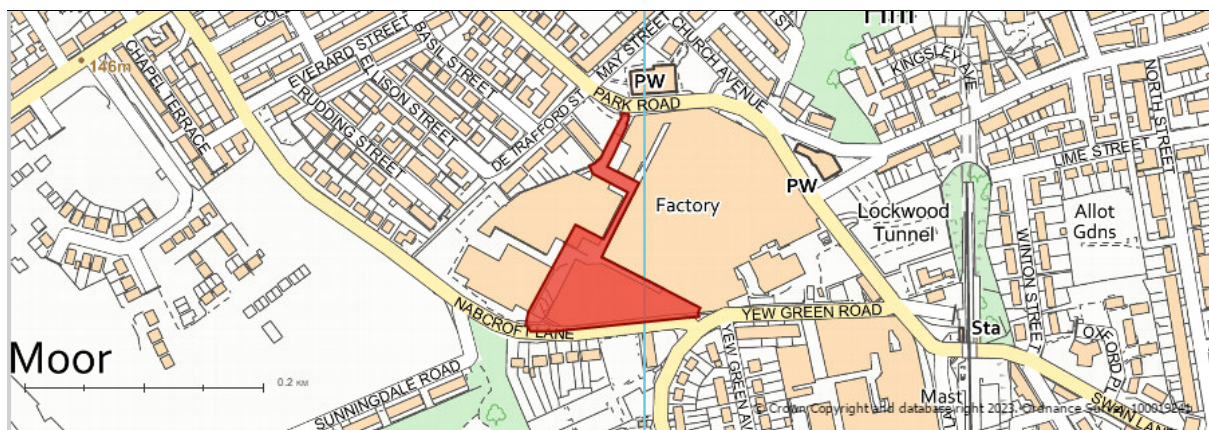
TARGET DATE
23-JAN-2023

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: Crosland Moor and Netherton

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

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

1.0 INTRODUCTION

- 1.1 The application has been brought before the Strategic Planning Committee due to it being a non-residential development on a site over 0.5 hectares. This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS

- 2.1 The application site lies within the existing David Brown Santasalo specialist industrial complex in Lockwood, c. 75m west of the train station. The red line boundary area itself lies to the south of the complex and forms a border with Nabcroft Ln. Opposite lies an area of existing and relatively new small-scale residential development. The site is served by an existing private car park off Park Rd to the east of the main site, with the main vehicular and pedestrian access to the site taken from Park Rd to the north of the complex. Secure cycle parking is also available via Gate 1 at the north of the site. The topography of the site slopes significantly from west to east along the southern boundary.
- 2.2 The site has undergone a programme of redevelopment in the past few years to accommodate the undertaking of new long-term specialist industrial contracts, which is also the rationale behind this application.
- 2.3 The application site red line boundary measures approximately 0.75 hectares, which sits in a wider c. 4.6 ha blue line boundary area.

3.0 THE PROPOSAL

- 3.1 The applicant is seeking full planning permission for the '*demolition of an existing building and the erection of an engineering building, with associated external works*'. Both the existing and proposed building are considered to be Use Class B2 (General Industrial).
- 3.2 The existing industrial building – predominantly built of red brick with a repeating multi-gable (M-type) roof – which forms the southern boundary of the industrial complex with Nabcroft Ln – would be demolished in its entirety. The building includes date stones for 1917, 1919, and 1940, although it is not considered to be of historic significance. The building's current dimensions as seen from the south (Nabcroft Ln) are c. 112.5m in length and between c.

10.5 to c. 12.5m in height at its tallest points. The building somewhat follows the prevailing topography along Nabcroft Ln. Seen from the west, the building measures c. 62.5m in depth and c. 15.5m in height. From the east the building measures c. 39m in depth with a maximum height of c. 18.3m. It has an existing gross internal floorspace of c. 3000 sqm.

- 3.3 This application is proposing to replace the existing building with a modern, portal-framed industrial building capable of undertaking the work required by the company's new contract, which includes the on-site construction and testing of gears in association with the recently developed Marine Assembly buildings. The proposal would be constructed in two phases to allow for construction of the western testing facility area to be built and operational before the Marine Assembly (the eastern area) is constructed.
- 3.4 The applicant submitted amended plans on 01/02/2023 detailing a revised red line boundary due to matters of land ownership along the site's southern boundary. Officers consider that the amendments to the red line boundary constitute a material reduction in the scale of the site and, as such, further consultation on the amended proposal was deemed not to be required.

Supporting Information

- 3.5 In addition to the submitted plans, the following documents have been submitted in support of this application:
- Application Form
 - Bat Survey Report
 - Phase I Ground Investigation Report
 - Noise Impact Assessment
 - Drainage Strategy

Environmental Impact Assessment

- 3.6 The proposal falls under Schedule 2 Part 4 (f) of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) as a development for the production and processing of metals; manufacture and assembly of motor vehicles and manufacture of motor-vehicle engines, with the area of new floorspace exceeding 1,000 square metres. The proposed development would have a floorspace of c. 3,439 square metres.
- 3.7 The Council published its EIA Screening Opinion on 23/12/2022 which concluded that an Environmental Statement is not required for this proposal.

4.0 RELEVANT PLANNING HISTORY

Application: 20201/91994

Description: Siting of a temporary single storey Portakabin building

Decision: Approved 14/07/2021

Application: 2020/91894

Description: Demolition of existing building and erection of engineering building with associated external works

Decision: Approved 23/11/2020

Application: 2016/90055
Description: Erection of engineering building, demolition of existing building and associated external works (modified proposals)
Decision: Approved 06/04/2016

Application: 2015/92159
Description: Erection of general industrial building (Class B2) and associated external works
Decision: Approved 08/10/2015

Application: 2014/93156
Description: Erection of engineering building, demolition of existing building and associated external works
Decision: Approved 05/12/2014

Application: 2014/92973
Description: Demolition of existing office building and formation of extension to existing engineering facility, new transformer and associated external works
Decision: Approved 17/12/2014

Application: 2014/92083
Description: Erection of engineering building, demolition of existing building and associated external works
Decision: Approved 26/09/2014

Application: 2014/90822
Description: Erection of new boundary treatment around the perimeter of the site comprising 2.4m high security fence with 450mm flat wrap razor wire above and vehicle barriers and erection 5 no. 6m poles with CCTV cameras
Decision: Approved 11/03/2014

5.0 HISTORY OF NEGOTIATIONS

5.1 Officers negotiated with the applicant to:

- Amend plans to detail site security
- Consider the use of soft landscaping boundary treatments
- Justify height of the proposed building and potential effects of overbearing on nearby residential dwellings
- Submit a surface water drainage strategy prior to determination
- Submit a Noise Impact Assessment with consideration of noise impacts on neighbouring occupiers
- Amend proposed building location and the site's southern red line boundary c. 1m north due to land ownership considerations

6.0 PLANNING LEGISLATION AND 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 Kirklees Local Plan. The Kirklees Local Plan was adopted on 27 February 2019 and comprises the strategy and policies document, allocations and designations document and associated proposals map.

- 6.2 The following legislation, policies, and guidance are considered relevant to the determination of this application:

Kirklees Local Plan (February 2019)

The site is unallocated in the Kirklees Local Plan.

- Policy LP1 – Presumption in favour of sustainable development
- Policy LP2 – Place Shaping
- Policy LP3 – Location of new development
- Policy LP7 – Efficient and effective use of land and buildings
- Policy LP9 – Supporting skilled and flexible communities and workforce
- Policy LP20 – Sustainable travel
- Policy LP21 – Highways and access
- Policy LP22 – Parking
- Policy LP24 – Design
- Policy LP27 – Flood risk
- Policy LP28 – Drainage
- Policy LP30 – Biodiversity & Geodiversity
- Policy LP32 – Landscape
- Policy LP51 – Protection and improvement of local air quality
- Policy LP52 – Protection and improvements of environmental quality
- Policy LP53 – Contaminated and unstable land

Supplementary Planning Documents

- Biodiversity Net Gain Technical Advice Note (June 2021)
- Planning Applications Climate Change Guidance (June 2021)
- West Yorkshire Low Emissions Strategy (WYLES) – Technical Planning Guidance

National Policies and Guidance

- 6.3 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published in 2012 and updated most latterly in 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 planning applications.

National Planning Policy Framework (NPPF) (July 2019)

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 6 – Building a strong, competitive economy
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places

- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

Climate Change

- 6.4 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.
- 6.5 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.

7.0 REPRESENTATIONS (PUBLIC)

- 7.1 This application has been advertised as a major development.
- 7.2 Publication of the application has been undertaken in accordance with the Council’s Development Management Charter (July 2015) and in line with the Council’s adopted Statement of Community Involvement (December 2019).
- 7.3 The statutory public consultation period took place between 18/11/2022 to 09/12/2022.
- 7.4 During the public consultation, a total of 2 representations were made. Both of these were made in objection.
- 7.5 The key points raised in OBJECTION are as follows:
- Concerns over impacts on roosting bats and other wildlife
 - Residential properties already impacted by increased noise pollution from previous planning permissions
 - Previous light and noise pollution complaints upheld at the site

7.6 Local Members:

Cllr Manisha Roma Kaushik (Crosland Moor and Netherton) – No comments received.

Cllr Jo Lawson (Crosland Moor and Netherton) – No comments received.

Cllr Mohammad Sarwar (Crosland Moor and Netherton) – No comments received.

8.0 CONSULTATION RESPONSES

8.1 Invitations to comment on this application were sent to the following consultees:

Kirklees Council:

KC Building Control – No comments received.

KC Business Economy & Regeneration – No comments received.

KC Crime Prevention – No objections subject to conditions.

KC Ecology – No objections subject to conditions.

KC Environmental Health – No objections subject to conditions.

KC Highways Development Management – No objections.

KC Highways Structures – No objections subject to conditions.

KC Landscape – Advice received.

KC Lead Local Flood Authority – Supports the proposal subject to conditions.

KC Minerals – No comments received.

KC Public Rights of Way – No comments received.

KC Waste Strategy – Advice received.

External Consultees:

Yorkshire Water – Advice received and conditions recommended.

9.0 MAIN ISSUES

- 9.1 Taking into consideration the site allocations and constraints, the main issues for consideration as part of the appraisal of the application are considered to be:

- Principle of Development
- Design
- Landscape Character
- Amenity
- Highways Safety
- Flood Risk & Drainage
- Biodiversity & Ecology
- Other Material Considerations

10.0 OFFICER ASSESSMENT

Principle of Development

Spatial Strategy

- 10.1 Policy LP1 sets out the Local Planning Authority's approach to the presumption in favour of sustainable development, as laid out in NPPF (Chapter 2), particularly Paragraph 11(c). Policy LP1 states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.
- 10.2 Policy LP2 requires that 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. The policy's supporting text identifies the Huddersfield sub-area as having a strong and innovative manufacturing sector, but that the area has poor air quality in some areas and pockets of high unemployment and deprivation.
- 10.3 Policy LP3 concerns the location of new development. In considering the abovementioned requirements of Policies LP1 and LP2, proposals are also required to reflect a settlement's size and function, place shaping strengths and opportunities/challenges for growth, spatial priorities for urban renaissance and regeneration, and the need to provide new homes and jobs.
- 10.4 Paragraph 7.12 of the Local Plan states that the Council's overarching objectives for the economy places significant emphasis on the need to support the growth aspirations of the districts indigenous businesses, as well as securing the inward investment opportunities, particularly in relation to the district's key manufacturing assets with focus being placed on the precision engineering and advanced manufacturing sectors.

- 10.5 NPPF (Chapter 6) Paragraph 81 states that *significant weight* should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.
- 10.6 As the proposal is for the partial re-development of an existing industrial site within the Huddersfield sub-area, which specialises in precision engineering and undertakes nationally important defence and other innovative sector related contracts, and provides skilled local employment, Officers consider that the principle of development is acceptable and the proposal is, therefore, in accordance with Policies LP1, LP2, and LP3 of the adopted Kirklees Local Plan and NPPF (Chapter 6), particularly Paragraph 81.

Design

- 10.7 Policy LP24 states that good design should be at the core of all proposals in the district and should be considered at the outset of the development process. Furthermore, proposals should promote good design by ensuring that the form, scale, layout and details of the development respect and enhance the character of the area, provide high levels of sustainability, and minimise the risk of crime, amongst other criteria.
- 10.8 NPPF (Chapter 12) sets out the national approach to achieving well-designed places. Paragraph 130 states that proposals should function well and add to the overall quality of the area for the lifetime of the development, be visually attractive as a result of good architecture, be sympathetic to local character and history, establish or maintain a strong sense of place, optimise the site's potential to accommodate and sustain an appropriate amount and mix of development, and create places that are safe, inclusive and accessible.

Phasing of Development

- 10.9 The applicant has submitted information regarding the phasing of the proposal. Phase 1 would comprise of the western part of the building (testing area and ancillary offices and plant rooms) and Phase 2 would comprise of the eastern part of the building (Marine Assemble Unit). Phase 1 would be completed and operational before the construction of Phase 2. This would be done to allow the applicant to begin contractual operations whilst the remainder of the proposal is developed.
- 10.10 Officers note the contractual and operational requirements of the applicant in the proposed phasing of the development. It is further noted that phasing the construction of the development would likely prolong the potential amenity, and other, impacts of construction. As such, Officers consider it appropriate secure the relevant conditions on a phase-by-phase basis to mitigate the potential impacts on neighbouring occupiers and the wider environment.
- 10.11 Given the nature of the proposal and the operational rationale behind it, Officers consider it highly unlikely that Phase 2 would not be developed.

Layout

- 10.12 The proposal would be formed of 2 slightly off-set, roughly rectangular buildings (phases) on the site of an existing, roughly triangular industrial building. It would be set c. 1m back from the southern site boundary and retain on-site vehicle access from site entrance Gate 3 (off Nabcroft Ln) to the centre of the site. An existing sub-station at the east of the site would be retained.
- 10.13 Due to the site's topography, the proposal would include a lower ground floor raw materials store, reception, office, and toilets to the east of the site. The ground floor would accommodate the main testing area, assembly area, and a large stores (these would take up their respective spaces across the ground, first, and second floors). The ground floor would also house a laser/paint booth, offices, conveniences, and a plant room. The first floor would accommodate more office space, welfare facilities, and secure control rooms. The second floor would house managerial offices and meeting rooms, welfare facilities, and two open roof plant decks at the west and north east of the building.
- 10.14 Officers consider the layout of the building, both within the site and internally, to be acceptable.

Form, Scale & Massing

- 10.15 The proposed industrial building would be formed of two conjoined buildings: the Phase 1 testing area and ancillary offices and plant rooms, and Phase 2 Marine Assembly Unit. The exterior dimensions of the proposal at its extremities would be c. 84m in length by c. 44m in depth. The height of the proposal would range between c. 10m (western gable) above floor level to c. 17m (eastern gable) above floor level. The two phases of the building would differ in height by c. 1.5m to offer a break in overall massing of the proposal.
- 10.16 The applicant has noted that the height of the proposed building has been dictated by the requirement for a 100T + 20T double hook gantry crane operating at 11m above floor level which would run length of the building. A second 50T crane would be located in the Phase 2 store area at the north of the site.
- 10.17 The building would be largely unglazed, except for the proposed office areas to the west and north east. Vehicle access doors would be located on the eastern elevation of the Marine Assembly Unit and centrally on the northern elevation. Emergency exits would be located throughout the proposal.
- 10.18 Officers note the industrial form of the proposal, its large scale (particularly the large, unbroken roofline from west to east), and marginally off-set massing between Phase 1 and Phase 2. In doing so, Officers further note the applicant's justifications of their operational requirements on the overall design of the proposal. Overall, Officers consider that the proposal would sit in the context of similar recent developments on this site and would be of an appropriate size based on the applicant's operational needs. Notwithstanding this, it is recognised that the proposal would form a large wall of development, particularly when viewed from Nabcroft Ln to the south. The amenity impacts of this will be further assessed in Paragraphs 10.29 to 10.36 of this report. However, in terms of form, scale and massing, Officers consider the proposal to be broadly acceptable.

Materials

- 10.19 The proposed building would be predominantly clad in in Goose Wing Grey panels with a Merlin Grey roof. This would be similar to recent developments within the site. The submitted Proposed Elevations Plan also shows areas around the main building entrance and office areas of Phase 1 to be clad in black and red, with large areas of glazing. The exact details of these materials have not been provided at this stage.
- 10.20 Officers consider the proposed materials to be appropriate for this type of development in this area. The bolder elements of cladding would face inwards into the site and would not be readily seen from the street. The exact details of all external materials shall be secured by conditions to ensure they are acceptable to the Local Planning Authority.

Sustainable Construction

- 10.21 Following revisions made to the proposal on 01/02/2023, the applicant is proposing the use of solar photovoltaic (PV) panels across the roofscape of the building. This would equate to the provision of c. 755 solar PV panels across Phases 1 and 2. No further information has been submitted regarding the proposed solar PV panels.
- 10.22 Officers do not raise objections to the provision of solar PV panels per se but note that further assessment into the potential impacts of c. 755 panels from glint and glare on residential amenity of neighbouring occupiers would need to be further assessed, particularly given the prevailing topography of the area. Any effects would likely be most prevalent on those dwellings at the west of Nabcroft Ln, Sunningdale Rd, and the new residential development on the old St Luke's Hospital site. As such, conditions shall be secured for a Glint and Glare Assessment (including any required mitigation measures) to be undertaken prior to the installation of the solar PV array on the proposal.

On-Site Landscaping

- 10.23 The applicant has not submitted any details in relation to proposed soft landscaping at the site. Officers note the industrial nature of the site and the hard boundary with Nabcroft Ln which would not easily facilitate the planting of soft landscaping measures.
- 10.24 KC Landscaping note that the introduction of soft landscaping (e.g., hedgerow or trees) at the site's southern boundary could enhance the visual amenity of the proposal. However, given the requirements of KC Crime Prevention in securing the site with additional security fencing (in accordance with NPPF (Chapter 8) Paragraphs 92 and 97), Officers consider that the introduction of a soft landscaped boundary would not be feasible in this instance.
- 10.25 As there is no loss of soft landscaping from the site, Officers do not consider the lack of a soft landscaping plan to weigh against the proposal in the planning balance.
- 10.26 Overall, Officers consider that the proposal is in accordance with Policy LP24 of the adopted Kirklees Local Plan and NPPF (Chapter 12).

Landscape Character

- 10.27 Policy LP32 requires that proposals should be designed to take into account and seek to enhance the landscape character of the area, with particular consideration of the setting of settlements and buildings within the landscape, as well as other environmental features in the vicinity.
- 10.28 The proposal would be located in an already well-established industrial site on a similar footprint to the existing industrial building. It would introduce a more modern industrial design, in-keeping with recent similar developments on the site. In this context, Officers consider that the proposal would not be of detriment to surrounding landscape character. The proposal is, therefore, considered to be in accordance with Policy LP32 of the adopted Kirklees Local Plan.

Amenity

Residential Amenity

- 10.29 Policy LP24(b) requires that proposals should provide a high standard of amenity for future and neighbouring occupiers; including maintaining appropriate distances between buildings and the creation of development-free buffer zones between housing and employment uses incorporating means of screening where necessary.
- 10.30 The proposed industrial building would be located c. 12m north of the closest residential dwellings on the southern side of Nabcroft Ln. Officers further note the historic presence of the existing industrial development on the southern boundary of the site.
- 10.31 As the proposal is located to the north of the nearby residential dwellings, Officers do not expect detrimental impacts on neighbouring occupiers' residential amenity in terms of overshadowing. Similarly, as no windows are proposed on the proposal's southern elevation, detrimental impacts in relation to overlooking are also not expected.
- 10.32 Given the historic presence of industrial buildings on the site's southern boundary, any potential issues relating to a loss of outlook caused by the proposal for a replacement industrial building are considered not to be significant, as the outlook from the existing residential dwellings would remain largely unchanged given the proposal is for the same use as is currently experienced.
- 10.33 As detailed in Paragraph 10.18 of this report, the proposal would form a larger wall of development along the site's southern boundary from what is currently there. As a result, detrimental impacts on neighbouring occupiers' residential amenity in terms of overbearing must be considered.
- 10.34 Officers consider that the dwellings to the west of Nabcroft Ln (towards the top of the hill) would face a similar scale of industrial development as they currently do under the proposal, given the site's topography. The dwellings at the corner of Nabcroft Ln and Moor End Rd towards the east of the site would face the proposal gable end on, with no habitable windows overlooking the site. Given this, Officers do not consider that the proposal would lead to a detrimental effect in terms of overbearing at these dwellings.

- 10.35 Officers do note, however, that the 2 relatively new residential dwellings on Nabcroft Ln are located opposite where the existing industrial building steps down, following the site's topography. The applicant has confirmed that the proposal would be off-set c. 1m north of the southern boundary, providing some additional space between the proposed industrial unit and existing dwellings. Notwithstanding this, the increased height of the proposal at this point would not be insignificant. However, Officers consider that given the industrial context of the site and the increased distance to these two residential dwellings, that detrimental impacts on the neighbouring occupiers' residential amenity in terms of overbearing would likely be limited and not be significant.
- 10.36 Given the above, Officers consider that the proposal is in accordance with Policy LP24(b) of the adopted Kirklees Local Plan.

Noise

- 10.37 Policy LP52 requires that proposals which have the potential to increase noise, vibration, light, dust, odour, shadow flicker, chemical or other forms of pollution must be accompanied by evidence to show that the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, so as to ensure it does not reduce the quality of life and well-being of people to an unacceptable level or have unacceptable impacts on the environment.
- 10.38 The applicant has submitted a Noise Impact Assessment in support of this application. This details that the predications made to assess the proposal against similar developments/uses on the site (as exact details of proposed operations would be classed as sensitive information) show that potential noise impacts on neighbouring residential dwellings would generally be at or below the typical background noise level, except for overnight use of the assembly area which could exceed background noise levels. The report further notes that any exceedance in this regard would be relatively low (3dB exceedance) and unlikely to be unacceptable. The report further details the recommended acoustic specifications for the construction of the proposal to reduce noise levels heard outside of the building.
- 10.39 However, the report does not consider the use of externally mounted plant and machinery (as proposed at the west and north of the building). Officers note that this information was requested as part of a noise assessment as the likely source of noise-generating infrastructure which could have the greatest detrimental impact on neighbouring occupiers. No information in relation to externally mounted plant has been provided at this time.
- 10.40 KC Environmental Health have reviewed the submitted information and note the findings of the report. However, based on those findings, Officers consider that mitigation would be required, particularly in relation to likely perceptible noise at night-time. A full assessment of the potential noise impacts of the proposal from external roof-mounted plant would also be required. KC Environmental Health recommend securing a pre-commencement condition for a full Noise Impact Assessment and implementation of any required mitigation measures.

- 10.41 Officers note the consultee position and recommendation for a further Noise Impact Assessment to be undertaken, taking into consideration the roof-mounted plant. Given the submitted baseline noise assessment and now known requirements for mitigation, Officers shall secure the necessary pre-commencement conditions for a full suite of assessment. In doing so, Officers also note the public representations received in relation to noise impacts on neighbouring occupiers and consider that a robust assessment and provision of suitable mitigation measures as required is of the utmost importance.

External Lighting

- 10.42 No information relating to the use of external lighting on or around the proposed building has been submitted at this stage. KC Environmental Health note that due to the proximity of the proposal to existing residential dwellings, it would be prudent to secure conditions for an external lighting and advertisement strategy. Officers agree with this approach and shall secure the necessary conditions.
- 10.43 Given the above considerations of noise and external lighting impacts, Officers consider that the proposal is in accordance with Policy LP52 of the adopted Kirklees Local Plan.

Air Quality

- 10.44 Policy LP51 requires that proposals should demonstrate that they are not likely to result, directly or indirectly, in an increase in air pollution which would have an unacceptable impact on the natural and built environment or to people. Furthermore, proposals that have the potential to increase local air pollution either individually or cumulatively must be accompanied by evidence to show that the impact of the development has been assessed in accordance with the relevant guidance. Development which has the potential to cause levels of local air pollution to increase must incorporate sustainable mitigation measures that reduce the level of this impact. If sustainable measures cannot be introduced the development will not be permitted.
- 10.45 The applicant has not submitted any substantive information regarding the potential impacts of the proposal on air quality, other than that there would be no increase in the number of employee vehicles accessing the site in association with the proposed industrial building.
- 10.46 KC Environmental Health note that there is a lack of information regarding the specific on-site operations of the proposal, other than for general equipment testing and assembly. As no specific information is given, adverse impacts on air quality in the vicinity of the site cannot be ruled out from potential on-site operations, with the proposal likely classified as having a *medium* impact on air quality under the West Yorkshire Low Emissions Strategy (WYLES) – Technical Planning Guidance.
- 10.47 Officers note that the specific operations of the proposal are largely classified as they concern new naval contracts relating to national security. However, it is considered that a proper assessment of potential air quality impacts of the proposal is required in order for impacts to be satisfactorily mitigated. It is also considered highly likely that this can be undertaken without impacting on the confidential nature of the company's upcoming contract. In light of this, a pre-commencement condition to secure an Air Quality Impact Assessment shall

be secured. Given the recent development of similar buildings on this site, it is considered likely that this can be assessed as a pre-commencement condition without detriment to the proposal or having other significantly detrimental impacts on the wider area.

- 10.48 Given this, the proposal is considered to be in accordance with Policy LP51 of the adopted Kirklees Local Plan.

Refuse & Waste

- 10.49 Policy LP24(d)(vi) requires that proposals incorporate adequate facilities to allow occupiers to separate and store waste for recycling and recovery that are well designed and visually unobtrusive and allows for the convenient collection of waste.
- 10.50 The applicant has confirmed that the existing facilities for on-site storage and collection of refuse and waste would remain unchanged as a result of this application. KC Waste Strategy and KC Highways have reviewed the application and raise no objections in this regard. As such, the proposal is considered to be in accordance with Policy LP24(d)(vi) of the adopted Kirklees Local Plan.

Highways Safety

Location Sustainability

- 10.51 Policy LP20 requires that proposals are located in accordance with the Council's spatial strategy to ensure the need to travel is reduced and that essential travel needs can be met by forms of sustainable transport other than the private car. Furthermore, proposals should be designed to encourage sustainable modes of travel and demonstrate how links have been utilised to encourage connectivity.
- 10.52 The proposal would not change the staffing levels at the site and would therefore not likely exacerbate reliance on private vehicles to access the site. Notwithstanding this, the site is located within reasonable walking distances of residential areas, Lockwood train station, and a number of bus stops operating several routes to Huddersfield and the surrounding area.
- 10.53 Given the above, Officers consider that the proposal is in accordance with Policy LP20 of the adopted Kirklees Local Plan.

Impacts on Highways Safety

- 10.54 Policy LP21 requires proposals to demonstrate sustainable modes of transport and be accessed effectively and safely by all users. New development will normally be permitted where safe and suitable access to the site can be achieved for all people and where the residual cumulative impacts of development are not severe. Furthermore, proposals are required to demonstrate adequate information and mitigation measures to avoid a detrimental impact on highway safety and the local highway network.

- 10.55 NPPF (Chapter 9) Paragraph 111 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 112 further details priority use of new roads, addressing the needs of people with disabilities, creating safe and secure places, allowing for efficient delivery of good and emergency service access, and enabling the use of electric vehicles.
- 10.56 The proposal would not amend the existing site access arrangements at the north (Gate 1) and south (Gate 3) of the site. The proposal is also not expected to introduce a significantly higher frequency of on-site vehicle movements resulting from deliveries than is already experienced on-site.
- 10.57 KC Highways Development Management have reviewed the application and raise no objections in highways safety terms. KC Highways Structures have requested a pre-commencement condition for the details of any retaining structures required at Nabcroft Ln to ensure their structural integrity and the safety of the site and highway. Officers note this position and shall secure the relevant pre-commencement conditions. As such, Officers consider that the proposal is in accordance with Policy LP21 of the adopted Kirklees Local Plan and NPPF (Chapter 9).

Car & Cycle Parking

- 10.58 Policy LP22 requires that proposals provide full details of the design and levels of proposed parking provision following the principles set out in the policy wording. In doing so, they should demonstrate how the design and amount of parking proposed is the most efficient use of land within the development as part of encouraging sustainable travel.
- 10.59 The Highway Design Guide SPD does not set local parking standards but notes that it should be used as an initial point of reference in designing new schemes. In relation to non-residential proposals, the SPD recommends early engagement with the Local Highway Authority to determine the required quantum of provision of car parking spaces should be undertaken.
- 10.60 The proposal does not change the existing number of employees using the site. As such, no provision of additional car or cycle parking spaces has been put forward for consideration. KC Highways note this unchanged quantum of car and cycle parking and raise no objections due to the lack of need arising from the proposal. Officers similarly note this justification and consider it to be acceptable. As such, the proposal is considered to be in accordance with Policy LP22 of the adopted Kirklees Local Plan.

Flood Risk & Drainage

Flooding Risk

- 10.61 Policy LP27 requires that proposals must be supported by an appropriate site-specific Flood Risk Assessment in line with national planning policy. The national policy requirements are set out in NPPF (Chapter 14). This details the sequential approach to development and flood risk to steer new development to areas with the lowest risk of flooding from any source.

- 10.62 The proposal lies in Flood Zone 1 with a site area of less than 1 ha. As such, the submission of a Flood Risk Assessment was not required in this instance. Further Government flood risk mapping shows that the site is at very low risk from fluvial and surface water flooding.
- 10.63 Given the above, the proposal is considered to be in accordance with Policy LP27 of the adopted Kirklees Local Plan.

Surface & Foul Water Drainage

- 10.64 Policy LP28 contains a presumption for the use of sustainable drainage systems (SuDS). In addition to this presumption, the policy also states that 'development will only be permitted if it can be demonstrated that the water supply and waste water infrastructure required is available or can be co-ordinated to meet the demand generated by the new development'.
- 10.65 NPPF (Chapter 14) Paragraph 169 requires major developments to incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.
- 10.66 The applicant has submitted revised foul and surface water drainage strategies for Phase 1, and combined Phases 1 and 2 of the proposal, following initial consultee comments. The Phase 1 drainage strategy shows the removal of an existing attenuation tank serving Marine Assembly 1 (to the west of the site) and diversion of its surface water flows into a new crate storage system underneath what would be Phase 2 at the east of the site, which would be designed to accommodate a 1 in 100 year + 30% climate change storm event. Surface water would be discharged into the public sewer. No proposed discharge rates have been provided at this time.
- 10.67 The combined Phases 1 and 2 drainage strategy would retain most of the infrastructure changes under the Phase 1 proposal, but re-locate a larger crate storage system further east, outside of the foundations area of the proposal.
- 10.68 Foul water connections would be made to existing on-site infrastructure to be discharge into the existing sewer network at Nabcroft Ln.
- 10.69 KC Lead Local Flood Authority have reviewed the submitted information and, following amendments, support the proposal subject to securing a condition for a scheme detailing the design and ongoing maintenance and management of designed attenuation structures and flow control devices within the proposed drainage train.
- 10.70 Yorkshire Water have also reviewed the submitted information and recommend conditions outlining that the sustainable drainage (SuDS) hierarchy has been satisfactorily followed, as drainage into the existing sewerage network is proposed, and to maintain separate foul and surface water drainage systems to the point of discharge into the combined sewer.
- 10.71 Officers note these recommended conditions and shall secure them. As such, it is considered that the proposal is in accordance with Policy LP28 of the adopted Kirklees Local Plan and NPPF Chapter 14.

Biodiversity & Ecology

Biodiversity Net Gain

- 10.72 Policy LP30 requires that proposals do not result in unmitigated or uncompensated significant loss of or harm to biodiversity and should provide biodiversity net gains through good design.
- 10.73 The Council's adopted Biodiversity Net Gain Technical Advice Note Paragraph 3.1.1 states that *'at this time, in the absence of legislation, a minimum of 10% net gain in biodiversity is required'*.
- 10.74 NPPF (Chapter 15) Paragraph 174(d) further requires that proposals should minimise impacts on and provide net gains for biodiversity. In addition, Paragraph 180(a) also states that if a proposal would result in unmitigated or uncompensated significant harm to biodiversity, planning permission should be refused.
- 10.75 The applicant has not submitted a completed DEFRA Biodiversity Metric 3.1 to support this application, detailing the current and proposed levels of on-site biodiversity resulting from the proposal. However, given the site is currently (and has been historically) used as an active industrial site, Officers consider it unlikely to be of high biodiversity value.
- 10.76 In light of this, KC Ecology recommend the imposition of a condition to enhance on-site biodiversity through protected species' mitigation, as detailed in Paragraph 10.80 of this report. Officers consider that this would likely result in a biodiversity net gain over the site's expected existing very low biodiversity value and shall secure the relevant condition. As such, the proposal is considered to be in accordance with Policy LP30 of the adopted Kirklees Local Plan and NPPF (Chapter 15), particularly Paragraph 174(d).

Protected Species

- 10.77 Policy LP30 requires that proposals must protect Habitats and Species of Principal Importance unless the benefits of the development clearly outweigh the importance of the biodiversity interest, in which case long term compensatory measures will need to be secured.
- 10.78 The proposal lies within a Bat Alert Area. The applicant has submitted a Bat Roost Survey Report in support of this application. This details that during surveys undertaken at the site in August 2022, no evidence of bat roosting was found, although there are several features at the site which could support bat roost activity. As a result, the report recommends the immediate cessation of demolition and/or construction activity at the site in the unlikely event of a bat being found, and a mitigation licence sought from Natural England before continuing.
- 10.79 KC Ecology have reviewed the submitted information and raise no objections to its methodology or findings. A condition is requested to secure the report's recommendations with regards to the cessation of activity if bats are found on-site.

- 10.80 The site also lies within a Swift (*Apus apus*) Nesting Record (2013) area. Although this is centred around the now re-developed St Luke's Hospital to the east of the site, KC Ecology recommend a condition for the provision of a Swift nesting box within the proposal. Officers concur with this approach and shall secure the necessary conditions in relation to bats and Swifts.
- 10.81 Given the above, the proposal is considered to be in accordance with Policy LP30 of the adopted Kirklees Local Plan in relation to protected species.

Other Material Considerations

Contaminated Land

- 10.82 Policy LP53 requires that development on land that is unstable, currently contaminated or suspected of being contaminated due to its previous history or geology will require the submission of an appropriate contamination assessment and/or land instability risk assessment. Furthermore, any development which cannot incorporate suitable and sustainable mitigation measures (if required) which protect the well-being of residents or protect the environment will not be permitted.
- 10.83 NPPF (Chapter 15) Paragraph 183 requires that proposals ensure that the site is suitable for its intended purpose taking into account the ground conditions and any risks arising from land instability and contamination, and that any contaminated land is remediated with works overseen by a competent person.
- 10.84 The applicant has submitted a Phase 1 Ground Investigation Report in support of this application. This details that the risk of on-site contamination is considered to be high owing the historic industrial use of the site. The report recommends further intrusive geotechnical investigation to ascertain the underlying properties of the site, as well as further chemical and soil testing and analysis to determine the extent and nature of any on-site contamination.
- 10.85 KC Environmental Health have reviewed the submitted information and consider that it is lacking in thoroughness and investigative rigour, particularly relating to the assessment of risks including the site's proximity to historic landfill sites (within c. 50m) and the potential for the presence of associated ground gas. As a result of this, KC Environmental Health do not agree with the risk assessment undertaken, nor the recommendation for further intrusive ground investigation until such time that a satisfactory Phase 1 report has been submitted to and agreed by the Local Planning Authority. Given this, a full suite of Phase 1 risk assessment, Phase 2 intrusive testing, remediation and implementation, and verification of contaminated land is recommended to be secured by pre-commencement conditions.
- 10.86 Officers note this advice and agree that a more thorough approach to assessing the potential risks of contaminated land and, potentially, subsequent intrusive investigation is required. As such, the necessary pre-commencement conditions and technical advice shall be secured.
- 10.87 In light of this, the proposal is considered to be in accordance with Policy LP53 of the adopted Kirklees Local Plan and NPPF (Chapter 15), particularly Paragraph 183.

Employment Opportunities

- 10.88 Policy LP9 states that wherever possible, proposals for new development will be strongly encouraged to contribute to the creation of local employment opportunities within the district with the aim of increasing wage levels and to support growth in the overall proportion of the districts' residents in education or training. The policy further requires that new industrial developments over 3,500 sqm of floorspace should seek to secure a training or apprenticeship programme.
- 10.89 The applicant has submitted information that no new employment opportunities would arise as a result of the proposal.
- 10.90 Whilst the creation of new employment opportunities is not an explicit policy requirement, it would be viewed as a material consideration in its own right and carry its own weight. The lack of proposed new employment opportunities is considered to weigh against the proposal, although this weight is considered to be limited due to the *encouragement* nature of the policy requirements. So too, the lack of securing a training or apprenticeship programme under Policy LP9. In this regard, the proposal is considered to be in conflict with Policy LP9 of the adopted Kirklees Local Plan, but with only some weight attributable to it. This policy conflict shall be weighed against the other policy and other material considerations of the proposal in the planning balance in Section 11 of this report.

Construction Matters

- 10.91 As with any new development project, there would likely be some disturbance to residential amenity during the demolition and construction phases of the proposal. Officers note, however, that this in itself is not a material consideration in planning terms that would weigh against a grant of planning permission.
- 10.92 KC Environmental Health have reviewed the submitted information and recommend the imposition of a pre-commencement condition to secure a Construction Environmental Management Plan (CEMP) to minimise and mitigate any adverse effects of the amenity of neighbouring occupiers during the demolition and construction phases of development. Officers agree with this approach and shall secure the relevant pre-commencement conditions.

Pre-Commencement Conditions

- 10.93 The recommendation proposes pre-commencement planning conditions. Therefore, in accordance with Section 100ZA of the Town and Country Planning Act 1990 and The Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the Local Planning Authority served notice upon the applicant to seek agreement to the imposition of such conditions.
- 10.94 Notice was served on 13/02/2023, 15/02/2023, and 17/02/2023 for the relevant conditions. Confirmation of agreement to the imposition of all of the proposed pre-commencement conditions from the applicant is still awaited. An update will be provided to Members at the committee meeting.

11.0 PLANNING BALANCE AND RECOMMENDATION

- 11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.2 This application has been assessed against relevant policies in the Development Plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for **approval**, subject to the imposition of the conditions as set out below.

12.0 CONDITIONS

1. 3-year commencement timescale
2. Development in accordance with the approved plans
3. Phase I contaminated land assessment
4. Phase II contaminated land assessment
5. Contaminated land remediation strategy
6. Implementation of contaminated land remediation strategy
7. Contaminated land verification report
8. Provision of highway retaining wall/structure
9. Air Quality Impact Assessment
10. Construction Environmental Management Plan
11. Noise Impact Assessment
12. Surface and foul water drainage strategy
13. Separate foul and surface water drainage systems
14. No piped discharge prior to completion of surface water drainage works
15. Details of external materials
16. Solar Panel Glint and Glare Assessment
17. External lighting strategy
18. Swift (*Apus apus*) nesting box
19. Compliance with Bat Roost Survey Report

and any other conditions deemed necessary by the Head of Planning and Development.

Background Papers:

Application and history files.

[Planning application details | Kirklees Council](#)

Certificate of Ownership:

Certificate A signed.

Report Dated: 20 February 2023

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Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 02-Mar-2023

Subject: Planning Application 2022/93230 Deepen and extend Windy Ridge Quarry; increase the number of HGV movements permitted; excavate former landfill to recover recyclable materials (retrospective); temporarily store soils on part of the previously restored quarry area (retrospective); form new access; restore the site by infill with construction, demolition and excavation wastes; and recycle imported construction demolition and excavation wastes Windy Ridge Quarry, Cartworth Moor Road, Cartworth Moor, Holmfirth, HD9 2RL

APPLICANT
S HUNTER, WINDY
RIDGE RECYCLING
LTD

DATE VALID
19-OCT-2022

TARGET DATE
18-JAN-2023

EXTENSION EXPIRY DATE
31-MAR-2023

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: Holme Valley South

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION: REFUSAL

1. The proposals through the construction of a new access road will result in the encroachment of urban development into the countryside. This together with its use as proposed would constitute inappropriate development failing to preserve the openness of the green belt and would conflict with the purpose of including the land within the green belt. Very special circumstances (which clearly outweigh this inappropriateness and other harm) has not been sufficiently demonstrated. The proposal is therefore contrary to policies LP32 and LP36, Part 2 (a) of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

2. The proposals will result in an intensified use in HGV movements on the surrounding highway network including Cartworth Moor Road. Consequently, this will result in the further structural failure of the unsealed, maintained in character only, section of Cartworth Moor Road, which in its current condition is considered unsuitable to serve the proposed intensified HGV movements. Cartworth Moor Road in part forms a core walking and cycling network. The intensified HGV's movements is likely to result in significant highway safety concerns from conflicts between HGV and other road users including vehicular, equestrian, cyclists and pedestrians, failing to safeguard and undermine the safety of all other users. The proposals as such are contrary to guidance in the NPPF and Kirklees Local Plan Policies LP21, LP23, and LP36 Part 2 (points c, d and f).

3. The carrying out of the proposals will result in unacceptable noise nuisance to the occupants of the nearest noise sensitive receptor known as Moorfield Farm. It has not sufficiently been demonstrated how the detrimental impact from noise nuisance on the occupiers of Moorfield Farm can be mitigated against adequately. The proposals as such fail to comply with Kirklees Local Plan Policies LP36, Part 2(c) and LP52 and guidance in the National Planning Policy Framework

4. The submitted information fails to demonstrate sufficiently how the proposals would avoid causing potential detrimental effects on the existing private water supplies serving a number of properties in the vicinity of the application site, to accord with Kirklees Local Plan policies LP34, LP36 Part 1 (c) and Part 2 (e) and guidance in the National Planning Policy Framework.

1.0 INTRODUCTION:

1.1 The application is submitted in full to deepen and extend existing operational Windy Ridge Quarry; increase the number of HGV movements permitted; excavate former landfill to recover recyclable materials (retrospective); temporarily store soils on part of the previously restored quarry area (retrospective); form new access; restore the site by infill with construction, demolition and excavation wastes; and recycle imported construction demolition and excavation wastes.

- 1.2 The application is brought to Strategic Planning Committee (SPC) for determination, in accordance with the delegation agreement, as the proposals will result in an extension to an existing operational mineral quarry, in excess of 0.5ha in area.

2.0 SITE AND SURROUNDINGS:

- 2.1 Windy Ridge Quarry is situated on the western edge of Cartworth Moor, approximately one kilometre to the south west of Holmfirth. The Quarry lies at the top of the eastern slope of the River Holme Valley, between 330 and 346 metres above ordnance datum (AOD). The Quarry is currently accessed via a bridleway HOL/94/10 which adjoins Cartworth Moor Road, 520 metres to the south of its junction with Gill Lane/Cartworth Bank Road. There are a number of other quarries in the vicinity, of which two are currently operational; Hillhouse Edge Quarry, which lies immediately to the north of this site and has seen significant restoration in its southern sector in recent years, and Woodhouse Quarry down slope to the west.
- 2.2 Public Right of Way (PROW) HOL/94/10, which is a bridleway, bounds the site to the west and north as it progresses from Whitegate Road to its junction with Cartworth Moor Road
- 2.3 The application red line includes within it a former landfilled area which forms part of the existing operational quarry and a previously restored part of the landfill quarry area which does not form part of the existing operational quarry. The proposals under the current application include works to both these areas and have been carried out in retrospect. See paragraph 3.1 bullet points 4 and 5, below.
- 2.4 The closest independent dwelling/farmstead is approximately 60 metres from the application south east boundary. This is known Moorfield House. There are other dwellings farmsteads approximately 137 metres from the site boundary.

3.0 PROPOSAL:

- 3.1 This application is for minerals and waste operations followed by restoration works at Windy Ridge Quarry, Cartworth Moor Road, Cartworth Moor, Holmfirth. The proposals also seek to recycle imported construction demolition and excavation wastes.

In brief the proposals will consist of:

- deepening the existing quarry by approximately 10 meters and extending it onto 1.75ha of agricultural land to the south-west of the existing operation, (total depth approx. 26m)
- closing the existing access to quarry traffic, following the completion of the proposed new access onto Cartworth Moor Road, after 24 months from permission being granted
- increasing the number of HGV movements permitted per day from 16 to 30 (15 in and 15 out),
- excavation of a former landfill to recover recyclable materials (retrospective),
- temporarily storing material that cannot be recycled from previous landfill area (4m high mounds) on part of the previously restored quarry area

(retrospective). This is proposed to be grassed in winter 2022/3 and removed by December 2024. Not yet grassed.

- restoring the site by infill with construction, demolition and excavation wastes,
- recycling imported construction, demolition and excavation wastes through the use of crushing and screening plant, and
- placement of 3m (top and sub soil) high bunds along the southern and eastern perimeter of the proposed extension part of the site.
- Extraction of the stone reserve expected to take approximately 12 years, with backfill completed within an additional 10 years. Final restoration to be achieved after 23 years by 2044.

3.2 Full details of the proposals are set out in the assessment below.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 The site produces a mixture of blockstone, walling stone and aggregates and currently operates under an extant planning permission which allows continuation of mineral working and subsequent landfill to restore the site.

4.2 The following planning applications are considered relevant to this proposal:

HO/4320 – for “Permission to Continue Stone Quarrying was approved on 20 May 1964

79/05800 – for “Quarrying Stone Extraction” was approved 22 January 1981

91/00024 – for “Quarrying - stone extraction” was approved 9 September 1994

94/91020 – for “Use of land as a skip hire depot” was refused 12 August 1994

94/91802 – for “Variation of condition 3 relating to backfill of worked out quarry on previous planning permission (HO/4320) for continuation of quarrying of stone” - approved 7 May 1996

2002/91421 – for “Variation of condition 2 on previous permission 91/62/00024/W0 to permit the continuation of mineral extraction and landfill Until 31 December 2026” - approved 13 March 2003. However, this permission was time restricted by planning condition until 31 March 2013.

2002/91422 – for “extraction of sandstone, associated ancillary activities and restoration by means of infill with overburden and inert waste” - approved on 28 March 2003

2012/93305 - Continue the extraction of sandstone and deepen the quarry to 323m AOD to restore the quarry to agricultural use by means of infill and to recycle construction, demolition and excavation waste – granted in March 2013. Mineral extraction to cease and the site to be restored in accordance with approved plan 8973/04 and details to be agreed as set out in condition 21 of the permission by 31st March 2028. - Appeal upheld in March 2014 to omit condition no. 4 and reword condition nos. 7 and 8 to refer to Heavy Goods Vehicles.

2020/92410 - Variation conditions 7 and 8 on previous permission 2012/93305 to continue the extraction of sandstone and deepen the quarry to 323m AOD to restore the quarry to agricultural use by means of infill and to recycle construction, demolition and excavation waste – granted 05 January 2021

Enforcement- Breach of condition notices sent 20/02/2023 (in relation to conditions 5, 6, 9, 12, and 28 of planning permission 2020/92410

(5) All commercial vehicles leaving the application site shall have their wheels and chassis cleaned before they enter the public highway.

(6) The total number of heavy good vehicles (HGV's) to and from the site shall not exceed 16 per day (8 in and 8 out).

(9) All loaded Heavy Goods Vehicles leaving the site shall have their loads sheeted.

(12) No waste, mineral or soils shall be stockpiled nor plant located above the original level of the ground.

(28) Except in emergencies to maintain safe quarry working (which shall be notified to the Mineral Planning Authority as soon as practicable):

(a) no operations, other than water pumping, servicing, environmental monitoring, maintenance and testing of plant shall be carried out at the site except between the following times 0800 hours and 1730 Monday to Friday; and 0800 hours and 1230 Saturdays;

(b) no operations other than environmental monitoring and water pumping at the site shall take place on Sundays or Bank or National Holidays.

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

- Officers request to change description to refer to works already carried out as being retrospective -07/11/22
- Request for additional information - phasing plans of both restoration proposals and extraction showing how the excavation will progress into the extension area 11/11/22
- Request for restoration plan to show full removal of proposed access and reinstatement of dry stone wall -16/11/22
- Revised supporting statement to reflect accurately what is proposed and to include details of phasing for restoration of the site- 24/11/22
- Extension of time on application 05/12/22
- Response to Environmental Health comments – 30/01/23
- Seeking agreement for biodiversity net gain should application be supported -10/02/23

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 lies in the Green Belt. Excluding the proposed extension area, the existing established operational quarry largely forms part of an allocated mineral extraction area and is also a waste safeguarded disposal site in the adopted Kirklees Local Plan.

6.3 Kirklees Local Plan (2019):

LP21 – Highways and access
LP23 – Core walking and cycling network
LP27 – Flood Risk
LP28 – Drainage
LP30 – Biodiversity and Geodiversity
LP32 – Landscape
LP34 – Conserving and enhancing water environment
LP36 – Proposals for mineral extraction
LP37 – Site restoration and aftercare
LP43 – Waste management hierarchy
LP44 – New waste management sites
LP45 – Safeguarding waste management facilities
LP46 – Waste disposal
LP51 – Protection and improvement of air quality
LP52 – Protection and improvement of environmental quality

6.4 Supplementary Planning Guidance / Documents:

National Planning Policy for Waste 2014

6.5 National Planning Guidance:

Chapter 6 – Building a strong competitive economy
Chapter 8 – Promoting Healthy and safe communities
Chapter 9 - Promoting sustainable transport
Chapter 11- making effective use of land
Chapter 13 - Protecting Green Belt land
Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
Chapter 15 – Conserving and enhancing the natural environment
Chapter 17 – Facilitating the sustainable use of minerals

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application was publicised by the erection of 2 site notices in the vicinity of the site and the posting of 15 neighbour notification letters. 27 representations are received from the public, the concerns of which are summarised below:

Impact on Green Belt:

- Proposals will cause detrimental effect on green belt
- The site should not be turned into an industrial waste disposal plant in a pleasant moorland green belt area.
- The detrimental effect on the area is continuing

Impact on environment:

- Runoff of sand onto surrounding highway network ending up in river Ribble & blocking road drains and potential for flooding damage to private properties
- Blocking of and contamination of private water supply
- *“threat to the water table, aquifers / aquicludes and water courses, including residential drinking (potable) water supplies”*

- *“The spring water flow rate has decreased, and no recent chemical and biological tests have been carried out. The water quality information provided in the Supporting Statement is out of date by a decade.”*
- Quarry excavations should not be permitted to go deeper *“we have noticed sandy silt coming through the pipes when it started to run again. The flow of water is still very slow and has nearly run out again”*
- Water supply to existing springs dried up as a result of on going works at the application site and damaged caused to springs
- Dust creation from operations and movement of HGV's will impact on air quality in the area
- On-going light, noise nuisance and vibrations can be felt causing detrimental impact on local inhabitants
- Stockpiles can be seen from distant views & processing plant equipment often located above original ground levels
- The road and surface destruction at the quarry, without a suitable drainage system has led to a change in the surface water drainage in the local area.
- Following heavy rainfall there is a river of stone coloured water with the appearance suggestive of oil or diesel contamination that originates from the quarry junction that runs down from Cartworth Moor Road and onto Cartworth Bank Road.

Impact on highway and safety concerns:

- Significant highway safety concerns from proposed increase in HGV movement on pedestrians, cyclists and equestrians as well as other vehicle users on Cartworth Moor Road, (which is in part a core cycling and walking route) and the surrounding highways network
- Since current site operator took over site, roads showing signs of erosion where track/bridleway meets Whitegate Road, due to HGV driving over edges/grass verges to pass
- Road edge has sunk, broken up and crumbled in some places
Concerns relating to *“HGV's speeding and recklessly driven HGV's accessing the quarry”* frequently, in excess of the current permitted numbers outside permitted hours
- Claims are made that there has been up to 100+HGV movements on one day recently and that the additional passing places proposed are to accommodate this level of HGV movement
- HGV movement should not be increased due to conflict concerns between non motorised users and HGV's
- Very dangerous to walkers, bikers and equestrians around Cartworth Moor with the amount of HGV's movement & mud/sludge in wet weather conditions with brick debris too
- The increased activity of HGVs along this route is at odds with point B6 of the 2025 Kirklees Transport vision:
- Locals using the roads been forced off the road and into the verge by drivers of HGV
- HGV 's witnessed using the route past Holmfirth JIN School which is equally unsuitable.
- No kerbs on CMR and surrounding highways to prevent further damage and erosion
- A blatant disregard for public rights of way and public safety in relation to the destruction of bridleway

- Whitegate Road, Bare Bones Road and Linshaw Road is part of a national cycle route which is damaged due to recent influx of HGV's movements
- The unsurfaced section of Cartworth Moor Road and nearby roads suffers badly from erosion in wet conditions, which will get worse due to proposals
- Increasing HGV movement will exacerbate the above concerns
- Parked vehicles daily block access to bridleway HOL/94/10 and at times restrict access to Weatherhill Lane and Copthurst Road
- Parking of wheel washer on bridleway making it almost unusable for walkers, cyclists and equestrians

Other concerns:

- Unauthorised excavation of bridleway
- Unauthorised works have been carried out, for which retrospective planning permission is now sought through this application
- Current operations on site are beyond permitted boundary
- *"change of use of the site from commercial extraction of rock / stone products to an acceptor of huge volumes of commercial waste, claimed to be inert in the planning application but there will be little to no oversight of this by council / other compliance parties – rather than fill a void with potentially dangerous detritus from a myriad of unknown and potentially contaminated sources"*
- "How will the increase in HGV's movements be monitored?"
- impact on the immediate environment, including habitats, soil depth, biodiversity, protected birds soil pollution with hydrocarbons
- inaccuracies/discrepancies and out of date information in the submitted Hydrogeological assessment, the validity of which is undermined and questioned.
- Breach of planning conditions in relation to existing planning permission including working as late as 21:00hrs Saturday afternoons and all day Sunday and parking restrictions of HGV not being adhered to
- already breached the permitted depth at the northern edge of the quarry, and has reopened a previously restored part of the quarry on the southern side without planning permission
- The accompanying Transport Assessment "notes nothing about increased risk to non-vehicular road users"
- No mention of any restoration of the damage to the bridleway, grass verges, drystone wall footings exposed and damage to surrounding highway network
- There should be no extraction of mineral 21m below ground level as permission on adjacent quarry
- There is no security procedure in the proposal to ensure that the imported waste will not be contaminated
- There is no regard to conditions on the current planning permissions for the site
- *"Quarry excavations already appear to have gone deeper without permission which is effecting private water supplies and polluting the streams and farm water supply "*
- Deeper excavation will impact on water table/aquifer
- Monitoring of site/ operations should be carried out
- Potential for depositing non inert waste

- Non quarry vehicles parked at site, “suggesting other business operated from site”
- According to the Supporting Statement (3.17) the backfill will not be completed until 2044 and the site will continue to be an industrial treatment plant long after all the stone has been extracted in 2034.(3.11)

None planning related concerns:

- Operations involve requiring appropriate Environmental Permits
- Breaking of national speed limit on CMR and surrounding highways
- productivity of a business should not be considered over the impact on direct effects of mental and physical wellbeing and quality of life of local residents.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

KC DM Highways – Support subject to conditions and a S106 Legal Agreement to include:

Highway Works:

➤ Reconstruction of the unsealed “maintained in character” only section of Cartworth Moor Road (a length of approximately 980m) to specification agreed in writing by the Highway Authority. The agreed scheme of works shall be implemented in full prior to commencement of the development.

Section 106:

➤ Annual maintenance fee of £25,000 per annum for the maintenance of White Gate Road, Linshaws Road and Bare Bones Road.

➤ Annual maintenance fee of (to be confirmed) for the inspection and maintenance Cartworth Moor Road (see assessment below)

KC Local Lead Flood Authority (LLFA) – no objections

The Environment Agency – No objections. Advisory notes for the applicant that proposals are likely to require Environmental Permit/s

8.2 Non-statutory:

KC Public Rights of Way (PROW) – Object to the proposals (see assessment below)

KC Ecology – support subject to provision of Biodiversity Net Gain (see assessment below) and provided no objections from Natural England

KC Environmental Health – Request for additional information and highlighting discrepancies within the Hydrogeological Assessment in relation to independent properties being fed by private water supplies.

British Horse Society – Objects to the proposals

9.0 MAIN ISSUES

- Background and proposed scheme of works
- Principle of development
- Green belt/landscape issues
- Site restoration and safeguarded waste
- Environmental issues (ecology)
- Local amenity issues (noise, dust and air quality)
- Drainage/flood risk & water pollution issues
- Highway/ PROW issues
- Representations
- Conclusion

10.0 APPRAISAL

Background and proposed scheme of works:

- 10.1 The Planning Application covers an area of 4.31 ha, including the 1.9 ha of permission 2020/92410. The permitted activity at this site is lawful by virtue of permissions 2012/93305 and 2020/92410 respectively; continued extraction of sandstone, deepening of quarry, recycling of construction, demolition and excavation waste and restoration to agriculture by means of infill (2012) and variation of conditions to permit 16 HGV movements (8 in and 8 out) per day (2020). Mineral extraction to cease and the site to be restored by 31st March 2028.
- 10.2 The 2012 permission allowed a vertical extension to extract a known valuable mineral resource and extend the operational life for a further 15 years to 2028.
- 10.3 The sandstone worked at Windy Ridge Quarry is the Huddersfield White Rock, one of the primary sources of high quality masonry stone in West Yorkshire. The supporting information states:
- “at Cartworth Moor, the White Rock is approximately 26 metres thick and consists of a succession of alternating layers of shale, sandy shale and flagstone. The most important horizon is a 5 metre thick bed of fine-grained, grey, massive sandstone, which can be described as “Hard York Sandstone”, and lies towards the base of the White Rock. It is this bed that provides the high quality masonry stone that can be sawn to create building and architectural products”.*
- 10.4 The operator now seeks to deepen the quarry by a further 10m to 313m AOD to provide access to the "Hard York Sandstone", and to extend the working area to the south. This will enable the Quarry to continue to produce block stone in addition to walling stone, garden stone and aggregate. The proposals also seek retrospective permission for the removal and recycling of the contents of the former landfill, to enable the stone reserves below to be recovered.

10.5 Information provided with the application states:

“ The permitted reserve of stone remaining in the Quarry is small and the additional 10m depth would release an additional 100,000m³, including the stone underneath the closed landfill. At 2.3 tonnes/m³ and assuming 20% wastage, this would yield approximately 184,000 tonnes of saleable stone. The southern extension would add a further 214,800m³ which on the same basis would bring the reserve up to 580,000 tonnes. The 20% rejects at 63,000m³ would be backfilled into worked out areas of the Quarry.

Previous sales of walling and garden stone products averaged 1,350 tonnes Per annum and aggregate sales have averaged 2,650 tonnes per annum. However, the increase in HGV movements sought would allow the applicant to increase production to 50,000 tonnes per annum The sandstone reserve, if the planning application was to be approved, would provide sufficient stone for around 11.6 years”.

- 10.6 Of note, is that the assertion that any infill cannot be put into the Quarry until sufficient working space is available within worked out areas, and it is unlikely that any significant fill capacity will be available for at least the next five years. Meaning backfilling will commence after five years. The anticipated total backfill volume is given to be approximately 415,000m³. This current proposal would extend the operational life of the existing operational quarry and proposed extension area for a further 16 years to 2044.

- 10.7 Paragraph 4.3 of the supporting statement refers to the retrospective part of the proposals which states:

“Excavation of the landfill has begun together with its treatment by screening and crushing to manufacture a recycled aggregate and soils. The materials within the landfill that cannot be recycled have been temporarily stockpiled above ground on the restored surface of the landfill to the south of the existing quarry. The stockpile is 4m in height and will be grassed during winter 2022/3.”

The stock piles do not appear to have been grassed as yet.

- 10.8 Drawings 10193A/03 P1, 10193A/03 P2 and 10193A/03 P3 illustrate the method of working within three phases, commencing in Phase 1 with excavation beginning to move southward into the extension area and infill in the NW corner. As infill progresses to the extent where the new access road is to be formed with a ramp down onto the quarry floor, the use of the existing access road is proposed to be ceased. The Bridleway is then proposed to be re-instated to a design to be agreed with the Planning Authority. Phase 2 will see the infill to close to original ground levels at the northern end of the quarry as excavation proceeds southward. Phase 3 sees the restoration of the completed infill progressing further in a southward direction with extraction reaching its maximum extent, together with the relocation of the access ramp onto the quarry floor. The final phase would be the complete infill of the quarry as shown on drawing 10193A/04,

Principle of development

- 10.9 Section 17 of the NPPF (Facilitating the sustainable use of minerals) indicates that it is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and the goods that the country needs. It also indicates that as minerals are a finite natural resource and can only be worked where they are found it is important to make the best use of them to secure their long-term conservation.
- 10.10 Paragraph 211 of the NPPF requires that great weight should be given to the benefits of mineral extraction, including to the economy. In considering proposals for mineral extraction, minerals planning authorities should consider how to meet any demand for the extraction of building stone needed for the repair of heritage assets, taking account of the need to protect designated sites; and when dealing with small scale building stone quarries, MPA's should adopt a flexible approach with regard to the duration of planning permissions which recognises the intermittent or low rates of working typically characterised by such sites.
- 10.11 The impact of the proposals on the amenity of the area is considered further in the assessment with reference to Local Plan policy LP36, however with regards to the principle of mineral extraction paragraph 15.7 of the Kirklees Local Plan states that the blockstone (in the case of this site Huddersfield White Rock) produced in the western side of Kirklees represents high quality building stone which is in demand across the UK for a range of building projects. The applicant states that this quarry is an important source of high-quality masonry stone in West Yorkshire and is in much demand for repairs to existing buildings and for new build in the vernacular style. The supporting statement paragraph 8.42 also states that the demand for scarce minerals of the type found at this quarry is in high demand therefore, the proposed operations would make a positive contribution to meeting this demand.
- 10.12 The preamble to LP36 requires that Kirklees will seek to maintain a landbank of permitted reserves of aggregates and also seek to maintain its contribution to meeting its share of the aggregates demand in the region on the advice of the Yorkshire and Humber Aggregates Working Party, unless exceptional circumstances prevail. Whilst the mineral resources extracted from the quarry will primarily be used for masonry, walling and gardens, some of the mineral resources will only be suitable for use as aggregate and will be extracted for such purposes. Therefore, this site will be making a contribution towards the crushed rock landbank.
- 10.13 The application site is located close to existing operational quarries, the stone quarried here is of high-quality and great weight should be afforded to minerals extraction especially this type of stone. In addition, the production of aggregates will assist in maintaining the landbank. Consequently, it is considered that the development of the site for mineral extraction is acceptable in principle subject to there being no significant conflict with local or national planning policy guidance/advice.

Green Belt/landscape issues

- 10.14 NPPF paragraph 150 states that certain forms of development are not inappropriate in the green belt provided they preserve its openness and do not conflict with the purposes of including land within it. These include criterion a) mineral extraction, criterion b) engineering operations and criterion e) material changes in the use of land. Criterion e) material change in the use of land would in this instance facilitate the quarry operation on the extended part of the site and will be considered on that basis.
- 10.15 As mineral extraction may not be inappropriate provided openness is preserved and there is no conflict with the purposes of including land in the green belt, it must follow that the operations necessary for the extraction of the mineral, including despoiling of the site, noise, disturbance, machinery and other paraphernalia must also be not inappropriate. It is not therefore proposed to comment on the operations already permitted at this site or the operation necessary to extract mineral from the extended part of the site. This includes the site cabin proposed to be relocated into the area of the extended quarry operations. The same applies to any engineering operations considered necessary to the existing lawful operation and any new operation deemed to comprise mineral extraction and other activity including reclamation and restoration across the whole of the application site. These comments are therefore confined to those aspects which it is necessary to consider in the overall balance of the proposal in terms of impact on openness and any conflict with the purposes of including land in the green belt.
- 10.16 With regard to the change of use of the agricultural land to extend the quarry, the land currently comprises two fields used for pasture to the south-west of the existing quarry, on an area of approximately 1.75 ha, roughly equal to the size of the existing quarry. This area of Cartworth Moor is high ground and due to the existing local topography is not highly visible in short distance views although it is visible from long distances. These fields form part of a very extensive area of upland rough pasture and moorland where the impact of the loss of the fields will be negligible to overall character. The fields will ultimately be restored to agricultural use and therefore the impact is also temporary, albeit for a further 16 years to 2044. The two fields will be an extension of an existing operational quarry and so is not a new isolated feature in the landscape, and the wider area contains other modest scale quarrying operations. With respect to Local Plan policy LP36, Part 1(d), the proposals to commence restorations in the existing part of the operational quarry, as works extend to extract mineral in the extension area would reduce the cumulative impact of active operations in the area.
- 10.17 Also included in the proposal is the temporary storage of soils on restored land (within the boundary of the former permission 2002/91420). This is located on the extreme west of the site on land that is not part of the managed pasture but on the western facing slope/escarpment above White Gate Road. This is proposed for a period up to the end of 2024 and is retrospective. This stored soil is visible in short and longer distance views as it has extended onto the escarpment and is stored in mounds. It also foreshortens long distance views across the site. The stockpiling is proposed to be retained until the end of 2024.

- 10.18 Bunds are proposed to be located along the whole of the southern and eastern edges of the extended site which are to be in place for the operational life of the quarry. These bunds are to be formed of excavation material (top and sub soil) and are proposed to be 3m in height. Bunds can significantly impact on openness as they are highly visible in the landscape and also foreshorten views. It is likely that extensive views across the site to the opposite hillside will be lost. However, they are an expected part of normal mineral extraction operations as they are a means of storing extracted material on-site. They will also screen the quarry operations from view, help to lessen noise and mitigate detrimental impacts, particularly residential and visual amenity. This is important as the extension of the quarry brings it into very close proximity to the dwelling Moorfield House. Without the bunds it is likely that there would be material harm caused to the amenity of the occupiers of Moorfield House. Any impact on openness will also be temporary as they will be removed through site restoration.
- 10.19 The existing quarry takes its access from a track from Cartworth Moor Road (CMR) which also gives access to the farm (both New Dunsley poultry farm and Quarryside farm have addresses immediately north of the access track). The track is also a public right of way and a bridleway. There are 16 permitted HGV movements per day (8 in and 8 out) under the current permission. The proposals are to close the existing access to quarry traffic after the complete construction of the proposed new access road, across the field between Cartworth Moor Road and the quarry extension and increase the number of HGV movements to 30 per day. This proposed new road would accommodate the width of two HGVs at its junction with CMR (7.3m) with the requisite visibility splays and be 4.1m wide along its length except for the passing place which would be 6m wide. It would be surfaced with plantings within 12 months of construction. There are also two new passing places proposed on CMR south of the quarry beyond the junction with Copthurst Road. There are two existing passing places on CMR in the vicinity of the site.
- 10.20 The proposed new access road constitutes an engineering operation in the green belt. The construction of a new road across open agricultural land in the field immediately adjacent to CMR would have a significant impact on the openness of the green belt through both the presence of the road and the use of the road by quarry traffic, which would significantly and materially increase noise and disturbance in this part of the green belt resulting in a very significant degree of harm. The road and its attendant vehicles would be very obtrusive to anyone using CMR or nearby PROW's of which there are a significant number in the vicinity. The presence of the access road including its junction with CMR would result in the encroachment of urban development into the countryside. This part of the proposed scheme is considered to constitute inappropriate development as it fails to preserve openness and is contrary to the purposes of including land in the green belt.
- 10.21 Inappropriate development is by definition harmful to the green belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Harm to the green belt by reason of inappropriateness carries substantial weight. It is therefore necessary to determine whether the degree of harm to the green belt is clearly outweighed by other considerations.

- 10.22 The quarry operation and its permitted traffic already impact on the openness of the green belt. The impact from the existing access is lessened somewhat though by its location immediately adjacent to substantial farm buildings, while the proposed new road is isolated between fields making it prominent and incongruous in the landscape. The movement of traffic along it will be highly visible and a disturbance in the open landscape. The degree of harm to the openness and character of the green belt for the lifetime of the quarry is therefore substantial.
- 10.23 Further harm is caused by the presence of the stockpiled material and the proposed bunds and inevitably from the mineral operation which is proposed to be extended to 2044. There is also potential damage to CMR and harm to its character, (discussed in more detail below) from increased HGV movement and proposed additional passing places, although passing places can be found on rural roads and only two are proposed.
- 10.24 Balanced against this degree of harm is the temporary nature of the development, albeit for a further 16 years. The stockpiles are temporary for 2 years and the soil bunds are considered a normal part of an operational quarry if there is no capacity to store elsewhere on site, as in this instance due to limited space within the quarry site. The bunds also screen the operations from view and lessen noise which is particularly important given the proximity of residential property.
- 10.25 NPPF paragraph 209 states that it is essential that there is a sufficient supply of minerals to meet needs. Minerals can only be worked where they are found. Paragraph 211 states that when determining planning applications great weight should be given to the benefits of minerals extraction, including at criteria f) the extraction of building stone needed for the repair of heritage assets.
- 10.26 In order for very special circumstances to be demonstrated, the overall benefit of extracting this stone must outweigh the harm caused to the green belt in this location.
- 10.27 The applicant has stated that the blockstone (Huddersfield White Rock) produced at Windy Ridge quarry is an important source of high-quality masonry stone and is in much demand for repairs to existing buildings and for new build in the vernacular style. The applicant's very special circumstances are that any harm to the openness of the Green Belt resulting from the proposal, is clearly outweighed by other considerations including meeting the demand for scarce minerals of the type found at this Quarry and that the new access road is proposed in order to eliminate conflict between quarry traffic and the users of the bridleway and footpath.
- 10.28 The demand for a scarce mineral is recognised, however, no information is received to substantiate that there is currently an unmet need for the demand and supply of this mineral, particularly for the repair of heritage assets as set out in Paragraph 211 of the NPPF and the Kirklees Local Plan. With regard to eliminating conflict between the HGV movements in association with the existing quarry and users of the bridleway/footpath, this could be accommodated in a less intrusive location than that proposed and particularly without the need for the proposed extension to the existing quarry. The proposal is by definition, inappropriate development in the green belt, and no very special circumstances, which clearly outweigh this inappropriateness and other harm have been sufficiently demonstrated. The proposal is therefore contrary to Kirklees Local Plan Policies LP32 and LP36, Part 2 (a) and guidance in the National Planning Policy Framework.

Site restoration and safeguarded waste

- 10.29 The final restoration of the site to agricultural use and moorland will require the import of inert waste, in addition to initially using waste and reject stone from the existing quarry. This is recognised in the existing planning permissions which allow the import of inert waste to help facilitate site restoration.
- 10.30 Recyclable materials will be removed from the imported wastes and processed through a crusher and screens to manufacture secondary aggregate and soils for sale. The remaining materials will be processed as required to manufacture a civil engineering fill and used to backfill the excavation.
- 10.31 Appendix A of the National Planning Policy for Waste contains a waste hierarchy and although this indicates that the most effective environmental solution to the generation of waste is waste prevention, it also indicates that the re-use and recycling of materials are the next best options. Waste Planning Authorities are therefore encouraged to take a positive approach towards dealing with waste in a way which moves its treatment up the hierarchy. In this instance the imported waste would be used in the final restoration of the site rather than simply being disposed of.
- 10.32 It is therefore considered that this proposal would see the re-use of a significant proportion of inert waste material which is consistent with current national planning guidance and Kirklees Local Plan policy LP43, which supports the minimisation of waste production and the re-use and recovery of waste materials.
- 10.33 The existing Windy Ridge Quarry is an allocated Safeguarded Waste Site, it is proposed that waste operations will continue on this site throughout the extraction and restoration phases of the proposed scheme, consistent with the requirements of Policy LP45 for safeguarding waste management facilities.

Environmental issues (ecology)

- 10.34 Whilst the site is not located within a specific designated environmentally sensitive area, it is close to the South Pennine Moor Special Protection Area (SPA). The proposals include a proportion of allocation MPA3 (formerly known as allocation ME1966). This site was included in the Kirklees Local Plan Habitats Regulation Assessment (HRA) Report, which concluded a low residual risk of impacts to habitats functionally connected to the SPAs. As a result the following text was agreed with Natural England to be included within the supporting text for policy LP30.
- 10.35 In accordance with the findings of the Habitats Regulations Assessment (HRA) for those development allocations within 2.5km of the SPA, further surveys will be required at planning application stage to assess detailed impacts on SPA birds and, if found to be necessary, appropriate avoidance and/or mitigation measures will be required to address any identified impacts in line with policy LP30. Suitable avoidance and mitigation measures may include:
- Avoidance of areas used by significant numbers of SPA birds (to be determined by a project level Habitats Regulations Assessment).
 - Provision of equivalent or greater quantity and quality of replacement habitat onsite (or as a last resort off site within 2.5km) with improved management to ensure use by SPA birds.

- Timing of works (construction, operation and decommissioning) outside the period most frequently used by SPA birds.
 - Monitoring of impacts to assess bird use over time.
- 10.36 A Preliminary Ecological Appraisal (PEA) has been submitted with the application. In addition to the PEA, a Habitat Regulations Assessment (HRA) has been submitted and in combination with the PEA, provides a comprehensive assessment on the ecological value of the site. The PEA makes recommendations for mitigative measures to avoid ecological impacts.
- 10.37 The Preliminary Ecological Appraisal report concluded that given the proximity to the South Pennine Moors (phase 1) SPA and that the site contains habitat which may be of limited potential value to nocturnal foraging Golden Plover (a designating feature of the SPA), that further survey and assessment work is recommended to quantify the use of the site by Golden Plover and to allow a project level Habitat Regulations Assessment to be prepared. The submitted HRA provided information on extensive Golden Plover surveys, concluding that the habitats within the application site, are not used by foraging Golden Plover, linked to the South Pennines SPA breeding population and that the site would not be considered functionally linked to the SPA.
- 10.38 Given the potential for the proposals to bring about an impact on a Natura 2000 European designated site, a HRA stage 2 'Appropriate Assessment' was undertaken based on the results of the ornithological survey and HRA Appropriate Assessment report, which concluded the proposals to have no likely adverse effects on the South Pennine Moors SPA. As the Habitat Regulations Assessment was progressed to an Appropriate Assessment, and due to the site's inclusion within Natural England's SSSI Impact Risk Zone, formal consultation with Natural England has been undertaken on the proposals, with comments from them to be reviewed. Subject to Natural England concurring with the conclusions of the reports and raising no objections, the Council's Ecology Officers advise is that mitigative measures recommended within the PEA be applied including the protection for nesting birds during work on the site, as described within Section 7.7 of the submitted PEA. This matter can be addressed by conditions, to accord with Local Plan Policies LP30 and LP37, should the application be supported by Members.
- 10.39 In addition to the above, any restoration proposals should provide a biodiversity net gain and it is recommended that utilisation of the DEFRA most up to date Biodiversity Net Gain (BNG) Metric should occur, in order to achieve a minimum of 10% net gain. The submission documents/plans make no reference to inclusion of biodiversity net gain. In the event the proposals are supported by Members, this matter will need to be addressed. The applicant is agreeable to the submission of a revised restoration scheme along with BNG metric calculation which would demonstrate and provide a 10% net gain. This matter can be secured via planning condition to accord with NPPF Chapter 15 and Local Plan Policies LP30(ii) and LP37 Parts 1 and 2.

Local amenity issues (noise, dust and air quality)

- 10.40 The National Planning Practice Guidance sets out clearly the principal issues that mineral planning authorities should address and acknowledges that not all issues will be relevant at every site to the same degree. Also of relevance is Local Plan Policies LP36 and LP52, which refers to the impacts on the environment including human health local ecology/biodiversity (addressed above), and any cumulative effects arising from individual sites and or a number of sites in a locality (see paragraph 10.16).

- 10.41 Operations in association with quarrying and mineral extraction would undoubtedly cause a disturbance to the surrounding locality. Whilst these issues were previously considered at the time of granting the original permission, the proposals are to extend the existing quarry both vertically and horizontally, as such it is necessary to assess these proposals in relation to noise and dust as well as air quality impacts on nearby properties and the surrounding area. These matters are addressed in turn below:

Noise:

- 10.42 The proposed works will allow extraction and infill to proceed in a southerly direction, moving closer to an independent dwelling known as Moorfield Farm. The location of the crushers, screens and storage is proposed to move southerly with the operations, remaining on the quarry floor at all times. Towards the end of infill operations, the recycling plant is proposed to be located on infill then to be removed off site when it can no longer be screened by the quarry faces. The final stages of infill will be therefore proposed to be completed by the placement of materials from which all recyclables will have been removed off-site.
- 10.43 The application is accompanied with a Sound Impact Assessment authored by S. & D. Garritt Ltd. dated 27 June 2022. The report at table 3.1 identifies the nearest noise sensitive receptors are independent dwellings. Background noise monitoring was undertaken between the 21st and the 27th of June 2022 and a summary of the results is shown in the tables within section 5. Based upon machinery and equipment already operating on site, a noise impact assessment was conducted and the findings are shown in para 6.1.
- 10.44 KC Environmental Health (Pollution & Noise Control) team has reviewed this information and provide the following advice:

“The NPPF states ‘Mineral Planning Authorities should aim to establish a noise limit, (through a planning condition), at the noise-sensitive property that does not exceed the background noise level (L_{A90,1h}) by more than 10dB(A) during normal working hours (0700-1900). Where it will be difficult not to exceed the background level by more than 10dB(A) without imposing unreasonable burdens on the mineral operator, the limit set should be as near that level as practicable. In any event, the total noise from the operations should not exceed 55dB(A) L_{Aeq, 1h} (free field).’

It can be seen from the table within para 6.1 that 3 of the 4 Noise Sensitive Receptor’s (NCR’s) meet with the requirements of the NPPF. However, Moorfield Farm is the exception with an exceedance of 11.3dB (furthest workings) and 16.6 (closest workings). While this will be a gradual increase in noise over an extended period of time, it is contrary to the requirements of the NPPF and although the report states it is likely that the predictions will be more favourable than those given in the table due to barrier attenuation, it cannot be ignored and so mitigation measures will be required. The report states there appears to be no further practicable reduction in quarry sound without placing unreasonable burden on the operator, and the requirement to not exceed 55dB L_{Aeq,1hr} in this instance is met at all times but no evidence is offered to support this.

With regards to the phasing of works, the report states the possibility remains that when work is being conducted at the quarry rim, the NSRs may have an acoustic line of sight to the mobile machinery. The predicted sound levels from the overall operation are shown in the table in para 6.2. During times when mobile plant and machinery is visible at the quarry rim, sound levels will comfortably be within the temporary 70 dB L_{Aeq} limit allowable for up to 8 weeks per year for exactly this type of activity. However, no detail is given in the report on the phasing timeframes nor duration of works”.

10.45 In response to the above the applicant’s noise consultant further response acknowledges the exceedances at Moorfield Farm and proceeds to offer reasoning for supporting the application and to explain the unreasonable burden that would be placed upon the applicant through the implementation of mitigation measures.

10.46 A request is made by the report author for the applicant to provide accurate cross-sectional drawings that show the relative positions and heights of receptor, processing plant and mobile works and also the quarry sides, which would allow a set of sound level predictions to be produced. The report pre-empts the request by stating it is a significant and difficult (if not impossible) piece of work for whoever prepares the drawings. However, cross sectional drawings have been submitted from MWP Planning dated 15 November 2022 Ref 10193A/06 P1, 10193A/06 P2 and 10193A/06 P3 which show the sections from within the site and the workings and operations within phase 3 that are to continue for at least five years, following ten years within phase 1 and 2. The applicant’s acting agent states:

“it should be possible to operate within a limit of 10dBA above background for all operations except when the 70dBA limit would apply. Periodic noise monitoring at Moorfield House can be used to check noise levels, and should there be any exceedances, site operations would need to be modified to reduce noise levels below the limit applied. It should be possible to set a condition requiring the submission and approval of a noise monitoring scheme within a reasonable period of time – say 3 months.”

10.47 The applicant in the supporting statement also states *“that it is anticipated that the noise generated by quarry operations, with the exception soil stripping and replacement can meet a limit of 45db L_{Aeq} ”* There is no evidence submitted to support this expectation.

10.48 In light of the above, insufficient information is submitted to demonstrate that the detrimental impact from noise nuisance that will be caused on the amenities of nearby NSR (Moorfield Farm) can be mitigated against adequately. This information is required pre-determination to consider any exceedances and if necessary how the site operations would need to be modified to reduce noise levels below the limit applied, to accord with guidance in the NPPF and Kirklees Local Plan Policies LP36, Part 2(c) and LP52.

Dust:

10.49 All of the operations and activities in relation to quarrying have the potential to generate dust, including the breaking of materials, handling of previously broken materials, and by the movement of mobile plant and vehicle movements in and out of the site. The main sources of dust generation are likely to result from carrying out these operations during dry conditions. The supporting

information includes details of dust management during the proposed works. Environmental Health officers are satisfied matters relating to dust management can be addressed by condition. Should Members be minded to support the application a suitably worded condition can be imposed on the decision.

Air Quality:

- 10.50 The application includes proposals to increase the number of HGV movements permitted. The Transport Assessment by Paragon Highways dated August 2022 (ref: 1769(B)) states that the proposals will increase the maximum number of trips per day to 30, this equates to 1 or 2 per hour. The proposals have been reviewed in accordance with the West Yorkshire Low Emissions Strategy (WYLES) Technical Planning Guidance.
- 10.51 The application does not fall within any of the declared AMQA's declared by Kirklees Council and it is unlikely that the proposals will require an air quality impact assessment. For complete accuracy, Environmental Health Officers have requested a comparison of heavy duty vehicle flows associated with the proposal against the requirements of Table 6.2 of the EPUK & IAQM Guidance Land-Use Planning & Development Control: Planning For Air Quality January 2017. This is still awaited.

Drainage/flood risk & water pollution issues

Surface water/flooding:

- 10.52 The application is accompanied with the following:
- Drawing Ref: 10193A/02, Site Plan (proposed), Rev A dated 07/11/2022
 - Drawing Ref: 10193A/02, Site Plan (existing), Rev - dated 22/08/2022
 - Document Ref: 228/01/wrq/hra/1121, Hydrogeological Risk Assessment, Rev 2 dated 22/11/21
- 10.53 On assessment of this information, the LLFA Officers advise that the Hydrogeological RA states in Section 2.3 that Cartworth Moor is underlain by free draining sandstone (Huddersfield White Rock) and in Section 3.3 that no off-site discharge of surface water is anticipated. The proposed works therefore appear not to impact the surface water drainage from the site. No conditions are recommended.
- 10.54 Likewise the Environment Agency were consulted. On assessment of the proposals their advice is that as the proposals are dealing with inert waste and the proposed activities are not at odds with any of their groundwater protection position statements, they raise no objections. Advisory notes for the applicant are provided to ensure the appropriate EA permits are sought where necessary.

Impact on private water supplies:

- 10.55 Local concerns are raised in relation to the carrying out of the proposals and the impact on private water supplies to independent properties nearby.
- 10.56 Council records indicate that there are several private water supplies in the surrounding area of the proposed extended landfill and a number of properties in the vicinity of the application site may be reliant on private water supplies for their sole supply of drinking water

10.57 The submitted Hydrogeological Risk Assessment (HRA) and suggests that there are no properties that are being served by private water supplies in the area. This is contrary to Council records which indicate that there are many private drinking water supplies currently in use near the proposed development, some of which are in fact listed in Table 2 of the HRA report.

10.58 In response the applicant's agent states that:

"Section 4 of the Hydrogeological Risk Assessment submitted with the application provided information on groundwater quality and a risk assessment. SMF Associates has had a 20 year involvement with Windy Ridge and Hillhouse Edge Quarries, as have I. Around 20 years ago, the Hillhouse Edge Quarry operator provided a mains water supply to the locality and residents of Hillhouse availed themselves of the opportunity of connection to the mains supply. I don't think that there are any local residents not connected to mains supply.

As noted in the HRA, no evidence has ever been found through extensive water sampling in the past, that there was any problem with contamination – other than at one location north of Hillhouse Edge Quarry and that was with turbidity. That issue arose from a particular feature of Hillhouse Edge Quarry – its well – and that was capped off to prevent silty water entering the well.

"paragraph 5.1 of the HRA which states, Hydrogeological impact assessment has demonstrated that the proposed deepening of Windy Ridge Quarry by a further 10m is unlikely to have any adverse impact on local groundwater flow or groundwater quality. Groundwater flowing beneath the site discharges to springs to the north and west of the Cartworth Moor. There is no evidence to indicate that quarry deepening would have any adverse impact on the rate of discharge or the quality of water emerging from any of these locations. Site management conditions would be acceptable."

10.59 The Councils Environmental Health (the regulator of such private drinking supplies) recognise that it is difficult to predict how private water supplies may be affected in the future by the development, however, if a risk to the current provision exists, it must be protected. Environmental Health Officers advise that a management condition as suggested by the applicant would not be appropriate in this instance and the potential risk to private water supplies would need to be considered pre determination.

10.60 To summarise, it is considered the proposals are unlikely to result in the interruption of land drainage however, it has not sufficiently been demonstrated how the proposals would avoid causing potential detrimental effects on the existing private water supplies serving a number of properties in the vicinity of the site, to accord with guidance in the NPPF and Kirklees Local Plan policies LP34, LP36 Part 1 (c) and Part 2 (e).

10.61 Highway & PROW issues:

10.62 All new developments can potentially impact on the highway network, it is important that the extent of these impacts are fully understood and considered when determining planning applications. New development will normally be permitted where safe and suitable access to the site can be achieved for all people and where the residual cumulative impacts of development are not severe. Kirklees Local Plan policy LP21 is of relevance in this instance, which sets out proposals should demonstrate adequate information and mitigation measures to avoid a detrimental impact on highway safety and the local highway network.

10.63 Also of relevance is Local Plan policy LP36 requires proposals for mineral extraction be considered having regard to amongst other things, Part 1 a. the impact on the environment and highway safety. Part 2 of policy LP36 clearly sets out proposals to extract minerals, including from former waste deposits will be permitted provided that they will not:

- a. cause unacceptable detriment to the landscape including its character or local visual amenity during or subsequent to extraction;
- b. be materially detrimental to interests of nature conservation, cultural heritage, geological or archaeological importance;
- c. cause nuisance or materially significant disturbance to local residents as a consequence of the generation of dust, noise or vibration by site operations or associated transport;
- d. prejudice highway safety through the volume or nature of vehicle movements generated;
- e. result in pollution of water resources or soils or the interruption of land drainage;
- f. cause materially significant permanent change to local rights of way networks; or
- g. result in permanent loss of best and most versatile agricultural land.

10.64 DM Highway Officers on review of the proposals provide the following assessment:

10.65 ***Development Overview:***

The proposals seek to extend the existing quarry both vertically and horizontally, increase HGV movements from 16 to 30 movements per day to an anticipated end date to 2044. The proposals also include the provision of a new site access. Highway improvements are also proposed along Cartworth Moor Road in the form of additional HGV passing places and surface repair works between the White Gate Road/Cartworth Moor Road junction and the site access.

Reference to Plans/Documents:

Transport Assessment, August 2022, 1769(B)
Highway Improvements Drawing, Drawing No. 1769-101A, Revision A
Prelim Access Proposal, Drawing No. 1769 201, Dated 22/08/2022

Adoption Issues:

The proposed new quarry access from Cartworth Moor Road, will be a private access serving the quarry only and will not be adopted by the Highway Authority.

PROW:

Public Bridleway HOL/94/10 runs along the northern edge of the application site providing a route between Cartworth Moor Road and White Gate Road. This Bridleway is currently used as the quarry access.

Public footpath HOL/175/60 runs along Copthrust Road crossing Cartworth Moor Road, continuing in a westerly direction to White Gate Road.

The PROW Team have been consulted on this application and has provided further detailed comments – see separate PROW comments below.

10.66 Vehicular Access:

It is proposed to access the site via a new dedicated vehicular access directly off Cartworth Moor Road. The new access takes the form of a simple priority junction, the initial 20m from Cartworth Moor Road is 7.3m wide and hard surfaced, beyond which the width reduces to 4.1m with a crushed stone surface. To facilitate HGV passing a passing place is proposed roughly centrally along the length of the access. Junction radii of 10m to the south and 8m to the north are proposed, which are based on the vehicle swept path of the largest vehicle expected to need regular access the quarry. The junction provides good visibility in both directions. The proposed new access is acceptable and offers improvements over the existing access arrangements. The existing access, which shares the alignment of Public Bridleway HOL/94/10 will revert to being a bridleway only, removing the HGV trips associated with the quarry.

10.67 Vehicle Routing:

All HGVs accessing the site travel to and from the south along Cartworth Moor Road. There are no route restrictions for other traffic associated with the quarry i.e. (cars and LGVs). HGV traffic will use the new access onto Cartworth Moor Road, travelling southeast to access the A616 Sheffield Road via Linshaws Road, Bare Bones Road, Flight Hill, Law Common Road, and Penistone Road (B6106). Whilst there is no strict routing for HGVS (other than the prohibition of using White Gate Road) this route is the only feasible route for HGV quarry traffic due to the layout, width, and alignment of alternative routes, which are unsuitable for HGV traffic.

10.68 Cartworth Moor Road:

Cartworth Moor Road is a local access road, which runs in a broadly north/south direction between White Gate Road to the south and Gill Lane to the north, a total length of around 1850m. The northern section a length of approximately 870m has a bituminous sealed surface and is in reasonable condition, the southern section a length of around 980m has a compacted (unsealed) stone surface, maintained in character only. By necessity all HGV traffic accessing the quarry does so from the south using the unsealed section of Cartworth Moor Road.

10.69 It is acknowledged that Cartworth Moor Road is an adopted highway maintained at public expense, however, it is important to understand the history of the road and the level of maintenance required. Cartworth Moor Road dates back to the early decades of the nineteenth century, it was awarded as a 'public carriage road' in the Graveship of Holme Inclosure Award of 1834 and, as such, became maintainable at public expense when the Highway Act of 1835 introduced the concept of adopted highways, it's what is often known colloquially as an 'ancient highway'.

10.70 Over the years, some ancient highways across the district have been brought up to a modern standard, in terms of drainage, lighting and surfacing. This was usually done in association with development in the locality. However, a number of ancient highways in rural locations still retain their historic character or have only been partially metalled over the years. These highways are considered to be 'maintainable in character' only, i.e., they are maintained to their original standard of construction. Cartworth Moor Road has a sealed surface over part of its length, with the remainder maintainable in character.

- 10.71 The Council, as highway authority, has a duty to maintain its adopted highways, but the power to improve them is entirely discretionary. So modern, surfaced and sealed roads will be maintained to that standard, while unsurfaced and unsealed, partially metalled roads and green lanes are maintained to that particular standard. If an adjacent landowner requires a maintainable in character road to be brought up to a modern standard, to support a business activity for example, the adjacent landowner would usually be required to fund this improvement.
- 10.72 Historically Cartworth Moor Road has been lightly trafficked, providing access to a small number of commercial and farmstead properties in addition to the application site and Hillhouse Edge Quarry. The application proposals, (observed to be already happening), have resulted in the increased use of Cartworth Moor Road by HGV quarry traffic, the observed increased use in HGV movements resulting in the structural failure of the unsealed, maintained in character only, section of Cartworth Moor Road, which in its current condition is considered unsuitable to serve the proposed intensified quarrying/land fill operations.
- 10.73 It is noted that the Applicant is offering highway improvement works on Cartworth Moor Road to help mitigate the increase in HGV movements, in the form of additional passing places and resurfacing work. Whilst these are welcomed the view of the Highway Authority is that deterioration of the road is beyond the point where periodic patching is appropriate, and that significant works are required to reconstruct the road to bring it back to an acceptable standard.
- 10.74 There is evidence that someone, presumably the Applicant, has already been undertaking resurfacing works on Cartworth Moor Road, these works are unauthorised, undertaken without the knowledge of the Highway Authority and without the requisite permit/agreement. Any condition requiring the reconstruction of Cartworth Moor Road would require the Applicant to enter in to a S278 Agreement, with works being implemented under the terms of the Agreement.
- 10.75 To be acceptable from a Highway perspective the unsealed, maintained in character only, section of Cartworth Moor Road would need to be reconstructed. Colleagues in Highways and Operations have been consulted with regards to the options and costs associated with the reconstruction of Cartworth Moor Road and two potential options have been identified.

Option 1 - Reconstruct with unbound materials (stone), road is unbound but is brought up to a more durable standard, maintained in its' current character – estimated cost circa £550,000

Option 2 – Reconstruct with a bituminous bound surface, similar standard to an all-purpose adopted road – estimated cost circa £1,100,000

Note, these are very much broad-brush estimates to give an indication of ballpark costs.

- 10.76 Should the application be recommended for approval, Highways would be seeking a condition requiring reconstruction of Cartworth Moor Road along the lines of the options suggested above or a combination thereof, specification to be agreed with the Highway Authority. The agreed scheme of works shall be implemented in full prior to commencement of the development.
- 10.77 Option one “maintained in character” would require ongoing annual maintenance, with an annual maintenance fee (to be confirmed) secured by S106 Agreement.
- 10.78 It is observed that local roads along the HGV routing, i.e., White Gate Road, Linshaws Road and Bare Bones Road, are showing signs of deterioration (significant potholes, carriageway edge vehicle overrun damage). Intensified HGV usage resulting from increased operations at the application site is accelerating and exacerbating this damage. Should the application be recommended for approval an annual maintenance fee of £25,000 per annum, secured by S106 Agreement, would be required.
- 10.79 ***Traffic Impact/Network Assessment:***
The extant permission (planning application reference 2020/70/92410/W) to extract sandstone and import fill material (along with some recycling of the infill material for exportation) allows a maximum of 16 HGV movements per day (8 in – 8 out). The current application seeks to increase the number of daily trips to a maximum number of 30 HGV movements per day (15 in – 15 out). This assessment is considered to be overly optimistic and does not reflect on site observations.
- 10.80 It is anticipated that the extraction of the stone reserve will take approximately 12 years, with backfill completed within an additional 10 years. Final restoration to be achieved after 23 years by 2044.
- 10.81 For the first 12 years it is anticipated there will be 10 loads of quarried stone exported per day, 20 movements (10 in – 10 out), with 5 loads of imported waste materials per day, 10 movements (5 in – 5 out) and 4 loads per day of exported recycled materials, potentially another 8 movements per day (4 in – 4 out) giving a total of 38 HGV movements per day.
- 10.82 The 30 movements per day threshold is based on all exported recycled materials being transported as return loads using vehicles bringing waste materials to the site. In practice due to the way the industry operates this is unlikely and is not reflective of site observations, where in one hour around 12 vehicle movements were observed, all vehicles bringing waste materials to the site and exiting empty (i.e., on return loads). In practice, based on the information provided and on-site observations, it is more likely that daily vehicle movements will be in the order of 38 HGV movements per day for the first 12 years, not 30.

10.83 Following 12 years of stone extraction it is estimated there would be a further 10 years of backfill, with final restoration of the site after 23 years. During this phase of the operation, it is stated that there would be 15 loads of imported waste materials per day, 30 movements (15 in – 15 out), with 15 loads of exported recycled materials per day, potentially an additional 30 movements (15 in – 15 out). Again the 30 movements per day threshold is based on all exported recycled materials being transported as return loads using vehicles importing waste materials. Using the same analogy as above if there were no return loads this could result in a total of 60 vehicle movements per day.

10.84 It is considered that the submitted assessment underestimates HGV movements and is not representative of how the quarry is currently or likely to operate in the future.

10.85 **Road Safety:**

Review of personal injury accident records for the proceeding 5-year period up to June 2021, show that on the local highway network in the vicinity of the site, which includes the routes vehicles accessing the quarry would take, i.e., Cartworth Moor Road, White Gate Road, Linshaws Road and Bare Bones Road including its junction with Dunford Road, there have been no reported injury accidents.

10.86 The options set out above and proposed condition was conveyed to the Applicant, who has responded that, in their view, the condition is unrealistic, unnecessary, not justified, and unaffordable. The Applicant has put forward an alternative offer of £75,000, (to be pay this over several years) to provide a 75mm thick asphalt overlay and declined to accept the suggested condition put forward by DM Highways.

10.87 Consideration is now given to the impact of the proposals on all other users of the highway infrastructure with particular reference to Public Rights of Way (PROW), core walking and cycling routes before summarising on this and the above highway matters.

PROW, core walking and cycling issues:

10.88 Public Rights of Way (PROW), officers note that significant damage has been caused to the surface of the bridleway through recent operations associated with the quarry. The highway has been obstructed and the required wheel washing facility also causes nuisance and conflict and this would be exacerbated if the permitted number of vehicle movements were to increase as proposed. Kirklees PROW objects to any increase in the number of vehicles using the existing PROW.

10.89 In support of the scheme the applicants have stated that the new access road is proposed in order to eliminate conflict between quarry traffic and the users of the bridleway and footpath. The proposed access road will be onto Cartworth Moor Road (CMR), which is as noted above, in part unsealed and unsurfaced and maintained in character as a country road. As CMR is used as a route by quarry traffic additional passing places are proposed south of Copthurst Road where the upland moorland character is particularly strong. It is acknowledged that vehicular rights exist over CMR. In addition, CMR where it meets the junction with Copthurst Road to White Gate Road, forms part of a wider existing core walking and cycling route as identified on the Local Plan.

10. 90 Paragraph 100 of Chapter 8, promoting healthy and safe communities of the NPPF, is of relevance in this instance which states *“decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails”*. Also of relevance is Kirklees Local Plan Policy LP23 which requires core walking and cycling networks to be safeguarded. Proposals that prejudice the function, continuity or implementation of the core walking and cycling network are unlikely to be supported under Policy LP23.
10. 91 Concerns are received during the course of the application, in relation to conflict between quarry traffic and other users of CMR. On further review, Kirklees PROW officers have reassessed the proposals particularly in light of the objections/claims regarding the current use of and the rapidly deteriorating condition of parts of CMR, including damage to verges and the stone surface as a consequence of increased HGV movements from the application site. PROW officers object to any increase in HGV movements to and from the quarry, beyond that currently approved (8 in and 8 out) per day.
10. 92 It is also acknowledged that an application has also been made for a Definitive Map Modification Order (DMMO) under s53 of the Wildlife and Countryside Act 1981 to record part of Cartworth Moor Road on the Definitive Map and Statement of Public Rights of Way (the DMS) as a public bridleway. The application has not yet been determined. While this is recognised the weight attributed to this is not significant, given its pending status and the outcome is uncertain. Equally PROW officers advise that CMR
- “would be considered to be recordable on the DMS as a Byway Open to All Traffic (BOAT). Section 66(1) of the Wildlife and Countryside Act 1981 defines a Byway Open to All Traffic (BOAT) as: “a highway over which the public have a right of way for vehicular and all other kinds of traffic, but which is used by the public mainly for the purpose for which footpaths and bridleways are so used”. Whether a vehicular road is considered to be a BOAT or an ‘ordinary’ road will depend on its character or type. Other routes of a similar nature elsewhere have been recorded as BOATs”.*
10. 93 A description is given at 2.2.2 in the Transport Assessment of bridleway HOL/94/10, currently used as access to the quarry. It is described as having *“grass verges on both sides providing step off areas for pedestrians and cyclists should a HGV be travelling along the track”*. However, the verges that previously existed have been damaged or removed as part of the quarry operations and are currently largely unusable for the purpose described. No mention is made of equestrian users who are considered particularly vulnerable. The suggestion given is that the vulnerable non-motorised users would need to step aside and show deference to vehicular traffic. This is not appropriate, and in practice there is currently little opportunity to do so. The same situation will also apply to parts of CMR.
10. 94 While CMR is generally wider than bridleway Holmfirth 94, with verges to either side, it is noted that there has recently been damage to verges. This limiting use of those areas by vulnerable users, who in any case would not be obliged to show deference to HGV traffic or may not find it possible or safe to do so. CMR has an overall width between walls of approx. 9.1m (30ft). However, along the unsealed length, the surfaced part of the carriageway is in places as little as 3.4m wide. This is indicated in the drawing at appendix C to the Transport Assessment. The usable width of verges may also be constrained in places by roadside ditches.

10. 95 A 20 tonne rigid vehicle of the type likely to be regularly used may have a width in excess of 3m. It would not be safe or possible to pass a horse rider allowing 2 metres of space required by the Highway Code (rule 215), without a rider moving well aside or a HGV driving over and damaging the offside verge. While two additional passing places are proposed, there would still be considerable lengths where no safe passing would be possible without verge damage or without vulnerable users giving way and moving aside. This is not considered acceptable and the virtual doubling of permitted traffic will significantly increase the likelihood of conflict occurring.
10. 96 Some elements of the proposal would lead to a benefit to the public rights of way network - e.g. by eventually removing quarry traffic from bridleway HOL/94/10 and on to a new access road. However, this is outweighed by the negative impact on CMR, by the proposed increased numbers of heavy vehicles. It is now apparent from the recent deterioration in surface condition due to HGV traffic, that the level and type of improvement to the surface of the way that would be required to sustain the increase to the permitted level of HGV traffic contemplated, is likely to be beyond the suggested isolated surface restoration in the form of filling voids with crushed stone.
10. 97 PROW Officers advise is that *"to improve CMR to a sufficiently high standard - to allow use by the increased number of heavy vehicles safely and without damage - would likely negatively affect the enjoyment of non-motorised users. Effectively a quiet rough track would likely need to be turned into a wider vehicular road, with loss of verges. Provision of a sealed surface, whilst not contemplated in the current proposal, is unlikely to be favoured and can cause safety risk for e.g., equestrians"*. In summary, the work required to improve the route to accommodate the increased quarry traffic and other users as recognised by Highway officers (above) is likely to be beyond the isolated 'surface repair works' the applicant has put forward. The provision of two HGV passing places described in the transport assessment would also be insufficient to address the concerns of conflict between pedestrians, cyclists and equestrians along the route of CMR.
10. 98 In summary the proposals, to include the increase in HGV movements onto Cartworth Moor Road would further result in the structural failure of the unsealed, maintained in character only, section of Cartworth Moor Road, which in its current condition is considered unsuitable to serve the proposed intensified HGV movements in association with the quarrying/land fill operations. The Applicant has declined to accept the full mitigation measures required to avoid, the recognised severe cumulative detrimental impact the proposals would cause, which to some extent is already observed. Without the full maintenance and repair works suggested by DM Highway Officers, the proposals would not only cause material highway safety concerns but also fail to safeguard and undermine the safety of all users of the wider highway network and Cartworth Moor Road which in part forms a core walking and cycling network. The proposals as such are contrary to guidance in the NPPF and Kirklees Local Plan Policies LP21, LP23, and LP36 (points c, d and f).

Representations

10.99 The preceding paragraphs address the majority of representations received other than those assertions relating to the potential use of non inert waste and future monitoring of the site. Under the submitted application, it is intended to infill using inert waste, comprising construction, demolition and excavation materials as part of the proposals. The use of any other waste type would be a deviation from submitted proposals and as such would require planning permission to vary the details. Separate to planning permission, the applicant will also be required to obtain the necessary Environmental Permits from the Environment Agency. With regards to monitoring, following recent concerns and complaints raised with the Council, monitoring of operations at the site have been carried out and can continue, particularly in light of the recent breach of condition notices being served and the unauthorised works to the bridleway.

11.0 Conclusion

11.1 The proposals would result in the extension of an existing operational quarry. The submitted information has failed to sufficiently demonstrate that the demand for the high quality masonry stone which is proposed to be sourced from the site, is unmet both locally or nationally. Furthermore, the proposals are not accompanied by sufficient information to demonstrate that the unacceptable impacts as set out in the above assessment could be satisfactorily controlled through appropriate mitigation measures.

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 proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in Kirklees Local Plan and guidance on the NPPF.

12.0 Reasons for refusal

1. The proposals through the construction of a new access road will result in the encroachment of urban development into the countryside. This together with its use as proposed would constitute inappropriate development failing to preserve the openness of the green belt and would conflict with the purpose of including the land within the green belt. Very special circumstances (which clearly outweigh this inappropriateness and other harm) has not been sufficiently demonstrated. The proposal is therefore contrary to policies LP32 and LP36, Part 2 (a) of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

2. The proposals will result in an intensified use in HGV movements on the surrounding highway network including Cartworth Moor Road. Consequently, this will result in the further structural failure of the unsealed, maintained in character only, section of Cartworth Moor Road, which in its current condition is considered unsuitable to serve the proposed intensified HGV movements. Cartworth Moor Road in part forms a core walking and cycling network. The intensified HGV's movements is likely to result in significant highway safety concerns from conflicts between HGV and other road users including vehicular, equestrian, cyclists and pedestrians, failing to safeguard and undermine the safety of all other users. The proposals as such are contrary to guidance in the NPPF and Kirklees Local Plan Policies LP21, LP23, and LP36 Part 2 (points c, d and f).
3. The carrying out of the proposals will result in unacceptable noise nuisance to the occupants of the nearest noise sensitive receptor known as Moorfield Farm. It has not sufficiently been demonstrated how the detrimental impact from noise nuisance on the occupiers of Moorfield Farm can be mitigated against adequately. The proposals as such fail to comply with Kirklees Local Plan Policies LP36, Part 2(c) and LP52 and guidance in the National Planning Policy Framework
4. The submitted information fails to demonstrate sufficiently how the proposals would avoid causing potential detrimental effects on the existing private water supplies serving a number of properties in the vicinity of the application site, to accord with Kirklees Local Plan policies LP34, LP36 Part 1 (c) and Part 2 (e) and guidance in the National Planning Policy Framework.

Background Papers:

Application and history files. see assessment above
Website link to be inserted here:

[Planning application details](#)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022%2f93230>

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

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Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 02-Mar-2023

Subject: Planning Application 2022/93465 Variation condition 30 (minerals) on previous permission 2000/90671 for extension of Carr Hill Quarry including the extraction of sandstone and clay, associated activities and its restoration by means of infill with inert wastes

Carr Hill Quarry, Barnsley Road, Upper Cumberworth, Huddersfield, HD8 8XG

APPLICANT

**DANNY WATSON, PMW
QUARRIES LTD**

**DATE VALID
21-OCT-2022**

**TARGET DATE
20-JAN-2023**

**EXTENSION EXPIRY DATE
31-MAR-2023**

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: Kirkburton and Denby Dale

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the rewording of condition 30, on receipt of accurate final site layout drawings showing appropriate contouring details and the completion of a Section 106 Agreement to link the existing structures and their use on the application site, to the applicant's haulage business situated 240m to the west, on the A635 Holmfirth Road.

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

1.0 INTRODUCTION:

- 1.1 This application is submitted under Section 73 of the Town and Country Planning Act 1990 (as amended) and seeks to vary condition 30 (restoration scheme) of previous permission ref: 2000/90671.
- 1.2 The application is brought to Strategic Planning Committee (SPC) for determination due to previous committee interests.
- 1.3 The SPC Chair has confirmed that this is appropriate given the SPC resolution to refuse a similar proposal under application reference 2021/91826.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site lies approximately 1km southeast of Shepley village and is situated south of and immediately adjacent to the A635 Barnsley Road. Access into the site is approximately 120m metres east of the sovereign crossroads junction with the A629 Penistone Road. The surrounding area is rural in character and the site lies within the green belt.
- 2.2 A mobile crusher / screen plant for recycling of construction, demolition and exaction waste is in operation within the northeast part of the site. This was granted permission under planning application ref: 2011/91942. The permission expired on 31/08/2022 which is the same time the previously approved restoration scheme should have been completed under application ref: 2000/90671. Planning permission to extend the time on both these two applications for a further period to 31st August 2025 is pending decisions, the recommendations on both will be dependent on the outcome of the application before Members on this agenda.

- 2.3 The site also accommodates a workshop / garage west of the site entrance. This was recently confirmed to be lawful for the purpose of planning control under a certificate of lawful development application ref: 2020/93854. Both facilities are served by the existing gated access from Barnsley Road. The site is bound by a palisade fence and an earth bund with landscaping which has matured over time along this road frontage. The site has been restored in part with higher land levels along the southern end of the site adjacent to Penistone Road. Part of this boundary also benefits from mature landscaping. The character of the landscape in the vicinity of the site is that of gently undulating managed pasture / scrub and arable fields with pockets of woodland and intermittent residential elements.
- 2.4 Two other metal clad containers are present on site, one to the side of the garage/workshop and the other to the rear of it. These are stated to be used in association with the operations of garage/workshop
- 2.5 The character of the landscape in the vicinity of the site is that of gently undulating managed pasture / scrub and arable fields with pockets of woodland and intermittent residential elements.

3.0 PROPOSAL:

- 3.1 The application is a resubmission of planning application 2021/91826, refused by Members on 17/12/2021.
- 3.2 This application is made under Section 73 of the Town and Country Planning Act 1990 (as amended) to amend / vary the previously-approved restoration scheme under planning permission 2000/90671 by varying the wording of condition 30, which reads:

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

- (a) the phasing and direction of the backfilling of the site with imported waste.*
- (b) **the removal of plant, buildings and structures, machinery and haul roads.***
- (c) the whole of the area indicated by a brown line on Drawing No.CH006 revision 1 to be planted as amenity woodland.*
- (d) the location of areas to be restored to woodland, agriculture and the location of hedges, fences and gates.*
- (e) the use of cell grown tree and shrub plants only; in the approved planting scheme submitted on 5th May 2000 quercus petraea specimens being replaced by quercus robur and the nurse species larix euroleptis and picea sitchensis being replaced by quercus robur anfraxinus excelsior.*
- (f) on areas of the site to be restored for agriculture a minimum combined depth of 1 metre of topsoil, subsoil and subsoil forming materials shall be placed on the surface of the final waste deposit.*
- (g) on the areas of the site to be restored for woodland a minimum depth of 1.5 metres of subsoil and subsoil forming materials shall be placed directly on top of the final waste deposit.*

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

3.3 The variation and new wording sought is:

After the completion of quarrying and backfill, the site shall be reclaimed in accordance with the revised supporting statement received 02/02/23 and drawing references: Members to note final accurate plans are awaited including those to show appropriate land level contouring to be created beyond proposed fence.

3.4 The revised restoration plans seek to incorporate the garage/workshop, area of hardstanding, and the introduction of a retaining structure for remedial works and long-term stability of the slope. This will include a gabion wall to protect the garage and area of hardstanding from potential slope failure. The proposed restoration plans also seek to retain two existing metal containers, one to the side and the other to the rear of the garage workshop, creation of a formal parking area for staff/ customers and soft landscaping. The use of the garage/workshop is stated would only be for the maintenance of vehicles used by the Applicant's haulage business based at Holmfirth Road, Shepley. A plan is provided showing the location of the haulage yard.

3.5 The application is accompanied with:

- a Stability Analysis Investigation and Geotechnical Design Report,
- Retaining wall assessment, the stability requirements for the site and the mechanics of remedial solutions for the slopes

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2022/93464 - The retention of garage, storage containers (x3), a cabin, hardstanding and access, and the construction of a gabion retaining structure and extension of hardstanding area -**Pending decision**
- 4.2 2022/90168 - Variation condition 4 (Time Limit) on previous permission 2000/90671 for extension of Carr Hill Quarry including the extraction of sandstone and clay, associated ancillary activities and its restoration by means of infill with inert wastes – **Pending decision**
- 4.3 2022/90169 - Variation of condition 3 (Time Limit) on previous permission 2011/91942 use of land for the recycling of construction, demolition and excavation waste – **Pending decision**

- 4.4 2021/94062 - Change of use from car sales to haulage depot with retail sales – **Pending decision**
- 4.5 2021/91826 – Variation of Condition 30 (Restoration Scheme) of previous permission 2000/90671 for the extension of Carr Hill Quarry including the extraction of sandstone and clay, associated ancillary activities and its restoration by means of infill with inert wastes, consolidating permission 1987/05723 Extension of a disused quarry for winning minerals and subsequent backfilling with approved inert waste – Refused 17/12/2021
- 4.6 2020/93854 – Certificate of lawfulness issued 29/01/2021 for existing use of detached garage for the repair, maintenance and storage of vehicles including those not associated with activities at Carr Hill Quarry.
- 4.7 2019/93039 – Variation of condition 30 (restoration scheme) of previous permission 2000/90671 for extension of Carr Hill quarry including the extraction of sandstone and clay, associated ancillary activities and its restoration by means of infill with inert wastes – refused 17/12/2019.
- 4.8 2011/91942 – Use of land for recycling of construction, demolition and excavation waste – granted 22/12/2011 subject to all recycling activities at site ceasing by 31/08/2022 under condition 3)
- 4.9 2005/93719 – Telecommunications notification for the prior approval of details for erection 15 metres column 3 pole width, 2 antennas, 1 transmission dish and 1 equipment cabinet – refused 10/10/2005.
- 4.10 2005/90132 – Parking of heavy goods vehicles – refused 13/05/2005 – appeal dismissed November 2005 in relation to the creation of a level area (see assessment below, paragraphs 10.7 and 10.8).
- 4.11 2002/94011 – Erection of detached garage for the maintenance and storage of vehicles associated with ongoing activities at Carr Hill quarry – granted 20/01/2003 for a limited basis to expire on 31/12/2007.
- 4.12 2000/90671 – Extension of Carr Hill quarry including the extraction of sandstone and clay, associated ancillary activities and its restoration by means of infill with inert wastes – granted 31/08/2000 and condition 30 subsequently discharged.
- 4.13 1987/05723 – Extension of disused quarry for winning minerals – granted 23/02/1988.

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

- 5.1 Request for vehicle swept plans to include garage and all plans supporting details be revised to omit cabin, container adjacent to site access, formal c/park and van spaces and external HGV tyre changing areas, in the interests of green belt purposes. The operations of the garage can be accommodated without the need for these structures/areas as most garages will be operated on an appointment basis. The final revised drawings awaited.
- 5.2 Confirmation from applicant's structural engineers, of whether a retaining structure would be required or not if the garage/workshop is removed. Along with revised supporting statement - Received

- 5.3 Revised plans to show whether the proposed gabion structure will be within the influence zone of highway loading, so as to determine whether its design will be liable to a formal technical approval – provided 13/01/2023
- 5.4 Request for all plans to show same area of hardstanding, contours/land levels to be created and established landscaping to site frontage – 21/02/2023
- 5.5 Request for accurate vehicle swept paths and revised supporting statement to include the applicants proposals to link the application site with their haulage site through a Legal Agreement and a plan of the Haulage site and ownership clarification

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

LP21 – Highways and access
LP32 – Landscape
LP37 – Site restoration and aftercare
LP38 – Minerals safeguarding
LP52 – Protection and improvement of environmental quality
LP53 – Contaminated and unstable land

Supplementary Planning Guidance / Documents:

- 6.3 Relevant guidance and documents are:

National Planning Practice Guidance
National Planning Policy for Waste

National Planning Guidance:

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

Section 6 – Building a strong, competitive economy
Section 13- Protecting Green Belt Land
Section 14 – Meeting the challenge of climate change, flooding and coastal change
Section 15 – Conserving and enhancing the natural environment
Section 17 – Facilitating the sustainable use of minerals

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application was advertised by site notices and a press notice published on 02/12/2022 in accordance with the adopted Statement of Community Involvement. The end date for publicity was 23/12/2022

One representation is received, the concerns of which are summarised below:

- Proposals will result in increased vehicle activity in area and increase hazard risk users of the surrounding highway infrastructure
- Result in further damage to road and pavement
- HGV's currently mount pavement entering and leaving the site
- Increase in vehicles will likely increase mud onto road
- "Has a traffic review been undertaken"

Denby Dale Parish Council – No objection.

Members for both Denby Dale and Kirkburton wards were notified as the site traverses both these wards. The following comments are received from:

Cllr Michael Watson

"I really would like to better understand the basis on which those recommendations might be made? It seems to me that on the face of it (and as appears to have been the view previously) that these applications ought to be refused in the absence of the Very Special Circumstances to which you refer.

If they do not proceed to committee what is the process for evaluation of the "Very Special Circumstances" and whether they would warrant the granting of permission?

The reason I ask is that it seems to me that the evaluation of such circumstances, whether in a decision to refuse or to permit any proposed development is something that ward councillors are well placed to have input to and indeed probably should. If the matter does not proceed to committee will the applications then simply be decided by an officer in isolation or will the ward councillors be asked for their proactive input to the decision making process and in particular the evaluation of the evidence put forward in support of the assertion that "Very Special Circumstances" exists on this occasion?"

Cllr Richard Smith

"Given the comments from my colleagues and the fact I have known the directors (and families) most of my life it's probably best if I declare this and make no other comments."

Cllr John Taylor

"As you know I have been involved in some of the conversations with the applicant regarding their proposals for this site and am supportive of these applications and would be happy for them to be determined under delegated authority. PMW Quarries is a long-standing local company which provides employment locally and it would be a shame to see this business lost"

Cllr Bill Armer

"My practice with planning matters such as this is to be responsive to my residents and their views. None have seen fit to contact me, so I have no reason to seek a referral"

Cllr Tim Bamforth

"I have no objection to the proposals"

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

K.C. Highways Development Management: No objection to the proposed variation of Condition 30.

K.C. Lead Local Flood Authority: No objection to the proposed variation of Condition 30.

The Environment Agency: No objection to the proposed variation of Condition 30

8.2 Non-statutory:

K.C. Ecology: No comments received to date

K.C. Landscape: request for amendments to landscape details- received 20/02/23. Awaiting final comments

K.C. Structures: The proposed retaining structures design will not be in the influence of highway zone. (see paragraph 10.19 below)

9.0 MAIN ISSUES

- Relevant background
- Principle of development and Impact on Green Belt
- Other harm
- The applicant's case for Very Special Circumstances
- The Green Belt balance
- Impact on surrounding amenity
- Highway matters
- Representations
- Conclusion

10.0 APPRAISAL

Relevant background

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

- 10.2 Temporary permission was granted in January 2003 for the erection of a detached garage for the maintenance and storage of vehicles associated with ongoing activities at Carr Hill Quarry under application 2002/94011. That permission expired on 31/12/2007 and upon expiration the site was required to be restored. This was not done and the matter came to light and raised with the applicant by officers at the time of considering application ref: 2019/93039.
- 10.3 Subsequently, a certificate of lawful development was submitted to the Mineral Planning Authority in 2020 and decision issued for the retention of the garage / workshop under application 2020/93854. The lawful use under the certificate of lawful application is for the repair, maintenance and storage of vehicles including those not associated with activities at Carr Hill Quarry. This does not override the planning permission for the approved restoration scheme which would result in removal of all structures on the site including the garage/workshop and areas of hardstanding.
- 10.4 Members resolution on a further planning application (2021/91826) to vary condition 30 was refused in December 2021, for the reason set out below:
- The proposed revision to the previously-approved restoration scheme includes the introduction of an engineered retaining structure and the retention of a level area, which would harm the visual amenities of the site and its context, would detract from local landscape character, would have an urbanising effect on the site and its surroundings, would result in development encroaching into the countryside, would result in built-up sprawl in the green belt, would fail to preserve the openness of the green belt, and would conflict with the purpose of including the land within the green belt. The proposed soft landscaping would not mitigate the harmful impact of the proposal. The proposal does not fall under any of the exceptions listed under paragraphs 149 and 150 of the NPPF. The proposal is, by definition, inappropriate development in the green belt, and very special circumstances (which clearly outweigh this inappropriateness and other harm) have not been demonstrated. The proposal is therefore contrary to policies LP32 and LP37 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.*
- 10.5 The 2021/91826 proposals were almost identical to those refused previously in December 2019 by officers under planning application 2019/93039.
- 10.6 The current proposals are again seeking to incorporate (retention of) the garage/workshop, area of hardstanding, and the introduction of a retaining structure for remedial works and long term stability. This will include a gabion wall to protect the garage and areas of hardstanding from potential slope failure. The gabion wall would be constructed along the foot of the slope to the south of the garage as shown on drawing 2276- 01-DR-S-1000 P1. It would vary in height from 2.5 to 4.5m and be planted with ivy (*Hedera Helix*). In addition, the proposals now also seek to retain two existing metal containers and creation of a formal parking area for staff/ customers and soft landscaping.
- 10.7 Temporary permission was also granted at the site in December 2011 for use of land for a mobile crusher / screening plant for recycling of construction, demolition and excavation waste under application ref: 2011/91942. All activities should have ceased by 31/08/2022 under condition 3 of this permission, and the site to be restored in accordance with planning permission 2000/90671. As set out in paragraph 2.2 above, consideration is pending for the extension of time on both these which would be dependant on the outcome of this current application before Members.

- 10.8 In May 2005 an application (ref: 2005/90132) to create a level plateau area of approximately 160sqm within the site, along the road frontage, was refused on grounds of inappropriate development in the green belt and the impact on visual amenity (due to the proposed parking of vehicles on the level area). An appeal was lodged against the decision and dismissed in November 2005.
- 10.9 The Inspector concluded that creating a level area within the site approximately 160sqm in size and close to and to the east of the entrance and front boundary would be visually intrusive, despite the screening mound to the east of the site entrance. In addition, the Inspector acknowledged the examples quoted by the applicant of other green belt developments in the locality, particularly those on the opposite side of the road. The Inspector concluded none of the quoted cases could be compared to the appeal proposals. This appeal decision is valid and remains a material consideration as the circumstances in terms of considering inappropriate development in the green belt remain the same.

Principle of development and impact on Green Belt

- 10.10 The principle itself of a restoration scheme would not be considered inappropriate development, nor would the proposed end use, provided the restoration scheme and end use would prevent urban sprawl and would preserve the openness of the Green Belt. Planning permission ref: 2000/90671 considered the principle of restoration to be appropriate, however as no details for the restoration scheme were submitted at the time, a condition (30) was imposed on the permission to allow for full details of a restoration scheme of the site to be submitted and approved. The previously approved scheme under condition 30 did not raise concerns in relation to Green Belt and was considered appropriate development as it would result in the removal of all structures including the area of hardstanding before returning the site near to its original land levels, with soft planting and dry stone walls to match existing walls in the locality.
- 10.11 The NPPF confirms that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and identifies five purposes of the Green Belt (paragraphs 137 and 138). The most relevant to this case being, a) to check unrestricted sprawl of large built-up areas, and c) to assist in safeguarding the countryside from encroachment. Paragraphs 147 and 148 of the NPPF state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances (VSC) which clearly outweigh the harm to the green belt by reason of inappropriateness and any other harm. All proposals for development in the Green Belt should be treated as inappropriate unless they fall within the exceptions set out in paragraphs 149 or 150 of the NPPF.
- 10.12 The proposals do not fall within any of the exceptions set out in paragraphs 149 and 150 of the NPPF. They are comparable to the scheme refused in December 2021 by Members, in that it would still create (or retain) a level hardstanding, albeit now reduced in area and introduce an engineered retaining structure in the form of a gabion wall. The level hardstanding area is stated to be the area required to accommodate the manoeuvrability to and from the garage/workshop by HGV's in use by the applicant's haulage business. This is demonstrated by vehicle swept paths which also includes parking 5 vehicle parking spaces intended for staff and customers, as shown on the drawing by Paragon Highways reference 2059-102 rev F. This drawing

is for the purpose of demonstrating the vehicle swept paths only. Revised drawings are still awaited, to show the location of the proposed stockproof fence adjacent to the last car park space and land beyond to be contoured to form a gradually sloping area. This is to minimise urbanising and further encroachment into the green belt.

- 10.13 The creation of the hardstanding area and introduction of a harsh engineered retaining structure (gabion wall) would still result in an urbanising effect at the site. These elements would clearly read as a human intervention in the landscape.
- 10.14 As noted above, the previously-approved restoration scheme would have ensured a reversion almost to the sites original land levels, creating a sloping hillside in a condition that would contribute to the rural character of the area, with little obvious evidence of large-scale human intervention in the shape of the landscape. The proposed revised scheme, however, differs greatly to that earlier scheme, particularly in relation to land levels and with the introduction of permanent structures on site.
- 10.15 The current proposals would result in built-up sprawl in the green belt, and encroachment into the countryside, failing to preserve the openness of the Green Belt, and conflicting with the purpose of including land within it. The proposal is contrary to paragraph 138 points a) and c) of the NPPF and advice in National Planning Practice Guidance.

Other harm

- 10.16 Local Plan Policy LP37 states that mineral working will be permitted only where the council is satisfied that the site can be restored and managed to a high standard, and where the proposed restoration is sympathetic to the character and setting of the wider area and is capable of sustaining an appropriate after-use. It adds that “restoration proposals for mineral workings should be designed to (inter alia) ensure that restoration and aftercare is appropriate with regard to the characteristics of the site’s surroundings, including landscape character”.
- 10.17 The revised restoration proposals, by introducing a level platform along the road frontage, together with the harsh engineered retaining structure would create an inappropriate feature within the local landscape.
- 10.18 An engineered retaining structure is required to prevent further potential slope failure for safety of users of the garage/workshop and hardstanding areas. This is evidenced in the information accompanying the application which advises that:

“The backfill was placed originally in order to minimise the risk from spalling and rockfall from the steep face of the quarry. This material is not supporting the road above and, if failure continues in this layer, there is no evidence that this will have an adverse effect on the A629. However, slope failure has the potential to affect the garage and the A635. As such, it was deemed that stabilising factors are needed to help prevent the slope movement.....

Removal of the garage and the associated infrastructure will not provide adequate space for a stable angle of slope to be built out without at least some form of artificial retention system. The recommendation would still be for a

gabion style wall (or another flexural wall structure such as a crib) before the highway to allow for a boxed toe (firmed up toe) that prevented minor shifts in material that lead to mass loss of volume, without creating a rigid system that has a risk of brittle decay."

- 10.19 In light of the above, and to accord with Local Plan policy LP53 it is recognised that a retention system would still be required in the event the garage/workshop was removed. However, this could be designed to integrate it with an appropriate restoration and landscaping scheme for the site. The Councils Structures team was consulted and requested further information to establish whether the proposed retaining structure will be within the influence zone of highway loading and whether its design will be liable to a formal technical approval. On receipt of this information, the Councils Structures team have advised that the design of proposed retaining structure, as shown on drawing 2276-01-DR-S-1010-13 alleviates the need for a formal technical approval from the structures team.
- 10.20 In summary, the resultant impact of the proposals would not only detract from the landform of the site itself and surrounding topography of the site (which consists of gently undulating fields) but would also cause long term permanent harm to the visual amenity of the area, contrary to Local Plan policy LP37 and advice in the NPPF and National Planning Practice Guidance.

The applicant's case for Very Special Circumstances

- 10.21 The applicant acknowledges the proposals do not fall within any of the exceptions set out in paragraphs 149 and 150 of the NPPF and as such submits the following as very special circumstances:

"Enabling the continued use of the garage, hardstanding and access will provide the necessary facilities for the Applicant to support its haulage business based a short distance away on Holmfirth Road in Shepley. This will maintain employment levels and assist in future expansion of the business. The Application is therefore supported by the Local Plan in respect of economic growth and local employment opportunities.

The "Very Special Circumstances" that exists is the need of the Applicant for facilities for the maintenance and repair of its lorry fleet, in a location close to its operating base on the opposite side of the Sovereign Cross-roads. The garage, hardstanding and access has served this purpose for the past 19 years. Its retention will protect the 4 jobs based there in addition to assisting in sustaining the 25 jobs within the Applicant's business.

Alternative premises in the locality do not exist. The garage has a Certificate Of Lawful Use, but the building cannot be used without an adequate manoeuvring area (the Hardstanding), the access and associated facilities such as vehicle parking and the storage containers.

Keeping the trucks in perfect running condition is the Applicant's main priority. Although the trucks are covered on full repair and maintenance contracts, the garage has been and is used on a daily basis for all other daily maintenance and storage of spare parts. The Company's plan for the future is to be more self-sufficient with the maintenance of the vehicles. It intends to do more maintenance in house without lowering the very high standards with which it runs at the moment.

The future of the business relies heavily on the garage at Carr Hill. The Company's operating centre and head office is on Holmfirth Road 240m to the west on the A635. However, the operating centre has no means of keeping the vehicles in excellent roadworthy condition. The garage is perfectly located and equipped to maintain the Company's high standards of safety and to enable it to run a modern fleet of environmentally friendly euro 6 engined trucks".

Overall therefore, both the Local Plan and the UDP are fully supportive of this application in this location. "Very Special Circumstances" do exist sufficient to outweigh harm to the openness of the green belt"

The Green Belt balance

- 10.22 Local Plan policy LP10, is in principle, supportive of rural economy which seeks to improve economic performance by supporting the needs of small and medium sized enterprises, whilst recognising that where development is proposed in the Green Belt regard must also be had to both national and local planning policy which seeks to protect the Green Belt.
- 10.23 As a consequence of the lawfulness for the existing use of the garage workshop, it is now immune from enforcement action. Nonetheless, it is important to note, the certificate of lawfulness for the existing use of the garage workshop, does not override the planning permission for the approved restoration scheme which would result in the removal of all structures on the site including the garage/workshop and areas of hardstanding.
- 10.24 The NPPF sets out that substantial weight should be given to any harm to the Green Belt and that VSC will not exist unless the potential harm to the Green Belt, by reason of inappropriateness or any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 10.25 In this case, whilst it is stated that the trucks are covered on full repair and maintenance contracts, the considerations advanced in support of the scheme carry moderate weight in its favour, in that there would be some economic benefits. These being:
- retention of 4 jobs at the application site,
 - the continued use of the garage, hardstanding and access will provide the necessary facilities for the applicant to support its haulage business based 240m to the west, on the A635 Holmfirth Road, and
 - assist the applicant's business plan for the future to be more self-sufficient with the maintenance of the vehicles in house,
- 10.26 The applicant's assertion that the building cannot be used without an adequate manoeuvring area (the Hardstanding) is not disputed. In support of this the applicant submitted vehicle swept paths for a vehicle 16.5m in length. The vehicles used by the applicant's haulage business is 8 wheel tippers approximately 9m by 3m in size.
- 10.27 Vehicle swept path analysis drawing is received which demonstrates the hardstanding area required necessary for the manoeuvrability of such vehicles. The applicant is advised the area beyond this hard standing be contoured appropriately to blend in with the proposed land levels with the remainder of the site. This together with appropriate soft planting would to some extent mitigate

the harm and resultant impact from the engineered wall/structures and the urbanising effect of the proposals. Should Members be minded to accept the applicant's VSC and approve the application, revised drawings are required to address the above matter, also referred to in paragraph 10.12 above.

- 10.28 On a very fine balance, it is considered VSC exist in support of the applicants existing business located 240m to the west on the A635 Holmfirth Road, which in the opinion of officers on balance outweighs the harm by reason of inappropriateness and the other harm as set out above.
- 10.29 Should Members accept the VSC, the applicant will be required to enter into a legal agreement (S106) to link the two sites together. The legal agreement would need to include for the garage/ workshop and associated areas to not be sold or let independently from the applicant's haulage business, and in the event the applicants existing haulage business ceases, a revised restoration scheme will need to be submitted to and approved in writing by the MPA, which shows the removal of the garage/workshop and associated areas of hardstanding. The recommendation is reflective of this to which the applicant is agreeable to.

Impact on surrounding amenity

- 10.30 Other than the applicant's own dwelling, beyond the south eastern boundary, the nearest other residential properties lie southwest of the site. However, these dwellings are located on a much higher elevated area of land, set back away from the site, separated by a road and adequately screened with existing mature landscaping on the application site's southern boundary. Subject to restoration proposals being carried out in accordance with relevant conditions of the 2000/90671 permission, it is unlikely that the amenity of the occupants of nearby properties including residential properties would be harmed by the proposal and continuation of use of the garage workshop.
- 10.31 Should Members accept the VSC, the location of the garage and areas of hardstanding would be adequately screened with the existing higher land levels and landscaping to the side of the garage. Therefore operations and works carried out in association with the garage/workshop on the site are unlikely to detract from the amenities of the nearby properties.

Highway matters:

- 10.32 The site is currently accessed via a gated access from the A635 Barnsley Road. The access to the site is constructed to a high standard and provides satisfactory access into the site. HGV movements would continue to be restricted under the terms of the current operative planning permission in the carrying out of and completion of the restoration scheme.
- 10.33 Highways Development Management (HDM) assessment is made on the initial vehicle swept path analysis accompanying the application which demonstrated tracking of a vehicle 16.5m in length. The fleet of vehicles used by the applicants haulage business are smaller in size and as such HDM raise no concerns from a highways perspective, stating that the smaller vehicles will be able to negotiate internally better than those submitted on the tracking drawings. The site access is wide with gates and barrier set back into the site and providing safe access and egress to large vehicles. HDM have advised no specific conditions are required.

- 10.34 In summary, the proposals would accommodate on site turning to allow the large vehicles to leave the site in forward gear and parking for members of staff/customers without giving rise to highway safety concerns for those using the site and the surrounding highway networks. The proposals are as such would be in compliance with Local Plan Policy LP21.

Representations:

- 10.35 Highway safety matters have been addressed within the preceding paragraphs. The following are matters not address and raised in the representations received.

- Result in further damage to road and pavement

- HGV's currently mount pavement entering and leaving the site

Response: Vehicle swept paths are submitted which demonstrates entry and egress of large HGV's to and from the site can be carried out without encroachment onto the pavement. HDM officers raise no concerns on this matter and the potential for further damage with the continued use of the applicant's fleet of vehicles in relation to their haulage business.

- Increase in vehicles will likely increase mud onto road

Response: The site and restoration proposals are to be continued under the 2000 permission condition which includes conditions (8 and 9) to prevent material/mud being deposited on the road.

- "Has a traffic review been undertaken"

Response: HDM Officers did not request nor deem this necessary for the revised restoration scheme.

11.0 CONCLUSION

- 11.1 The proposals would cause harm to the Green Belt, by reason of inappropriateness or the other harm as recognised above. On a very fine balance, it is considered Very Special Circumstances (VSC) exist in support of the applicants existing business located 240m to the west on the A635 Holmfirth Road, which is considered on balance outweighs the harm by reason of inappropriateness and other recognised harm.
- 11.2 The NPPF sets out that substantial weight should be given to any harm to the Green Belt and that VSC will not exist unless the potential harm to the Green Belt, by reason of inappropriateness or any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 11.3 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.4 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals subject the applicant entering into a legal agreement to link the application site together with the applicant's haulage business, would on balance constitute sustainable development and recommended for approval for the above reasons.

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

- 12.1 Complete rewording of condition 30, on receipt of accurate final site layout drawings including those to show appropriate contouring details and the completion of a Section 106 Agreement to link the existing structures and their use on the application site, to the applicant's haulage business situated 240m to the west, on the A635 Holmfirth Road.

FOOTNOTE:

Conditions 1-29 and 31- 53 (i.e. those conditions for which variation has not been sought as part of this application) were originally imposed by planning permission approval 2000/90671. They are reproduced on this notice to provide you with a complete record of all conditions, regardless of whether some may have already been discharged. Where the details pursuant to the above conditions in accordance with reference 2000/90671 already been submitted for discharge and approved by the Local Planning Authority and there is no change to the details required by that condition, a further discharge of condition application pursuant to this application reference will not be necessary.

Background Papers: Application and history files. Website link:

This application 2022/93465:

[Planning application details | Kirklees Council](#)

Application relating to previously approved restoration scheme:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2000%2f90671>

Similar scheme on previous application refused by Members:

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

Certificate of lawfulness issued 29/01/2021 for existing use of detached garage for the repair, maintenance and storage of vehicles including those not associated with activities at Carr Hill Quarry

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f93854>

Similar scheme on previous application refused by Officers:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f93039>

Certificate of Ownership –Certificate A signed: