

**KIRKLEES COUNCIL**  
**PLANNING SERVICE**  
**LIST OF PLANNING APPLICATIONS TO BE DECIDED BY**  
**PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)**

**12-May-2016**

**LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**  
**BACKGROUND PAPERS**

**There is a file for each planning application containing  
application forms, plans and background papers.**

**Simon Taylor - 01484 221000**

**NOTE: For clarification the page numbering referred to  
shall be those set out in the contents page**



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

### **PLANNING POLICY**

The statutory development plan comprises:

The Unitary Development Plan (UDP). These reports will refer only to those policies of the UDP 'saved' under the direction of the Secretary of State beyond September 2007.

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

The Local Plan will provide the evidence base for all new and retained allocations including POL. The Local Plan process will assess whether sites should be allocated for development or protected from development including whether there are exceptional circumstances to return POL sites back to Green Belt. The Local Plan process is underway and the public consultation on the draft local plan took place between 9<sup>th</sup> November 2015 and 1<sup>st</sup> February 2016.

Annex 1 of the National Planning Policy Framework explains how weight may be given to policies in emerging plans. At this point in time, the draft local plan policies and proposals are not considered to be at a sufficiently advanced stage to carry weight in decision making for individual planning applications. The Local Planning Authority must therefore rely on existing policies (saved) in the UDP, national planning policy and guidance.

### **National Policy/Guidelines**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 27<sup>th</sup> March 2012, the Planning Practice Guidance Suite (PPGS) launched 6<sup>th</sup> March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

### **REPRESENTATIONS**

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

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

## **EQUALITY ISSUES**

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

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

## **HUMAN RIGHTS**

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

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

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

## **PLANNING CONDITIONS AND OBLIGATIONS**

Paragraph 203 of The National Planning Policy Framework (NPPF) requires that Local Planning Authorities consider whether otherwise unacceptable development could be made acceptable through the use of planning condition or obligations,

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

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

The National Planning Policy Framework and further guidance in the PPGS launched on 6<sup>th</sup> March 2014 require that planning conditions should only be imposed where they meet a series of key tests; these are in summary:

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

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



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Recommendation: FC - CONDITIONAL FULL PERMISSION



**Application No: 2016/90499**

**Type of application: 49 - GENERAL REGULATIONS REG.4**

**Proposal: Erection (750 square metres) of portable modular buildings**

**Location: Moor End Academy, Dryclough Road, Crosland Moor, Huddersfield, HD4 5JA**

**Grid Ref: 412570.0 414948.0**

**Ward: Crosland Moor and Netherton Ward**

**Applicant: Kirklees Council, PRP**

**Agent: Dean Masters, Kirklees Council, PRP**

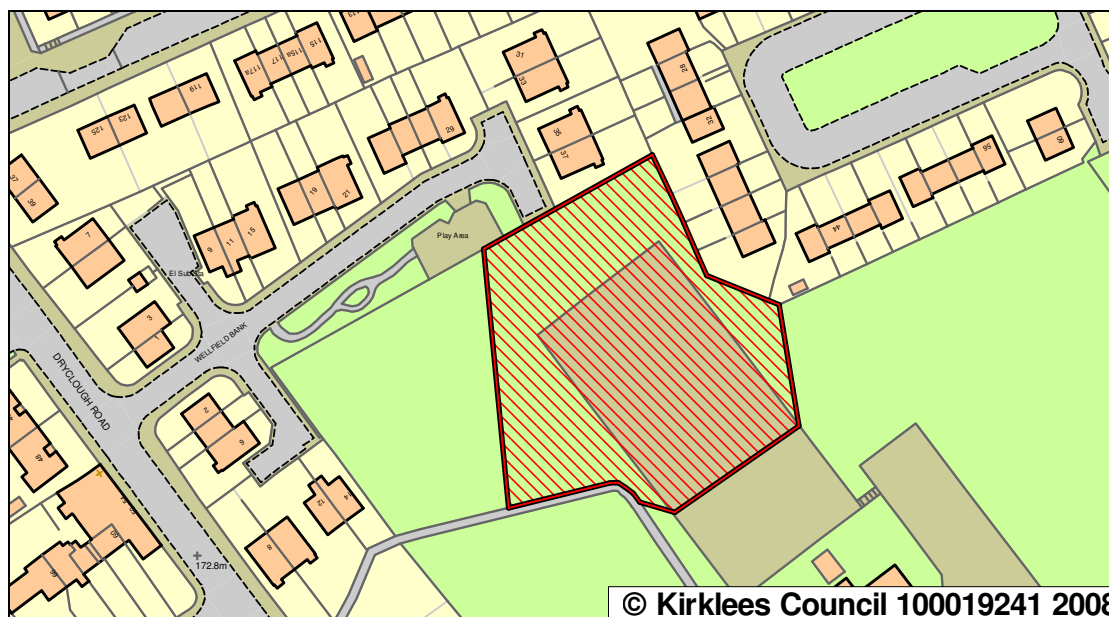
**Target Date: 13-Apr-2016**

**Recommendation: GR2 - GRANT UNDER REG.4 GENERAL REGULATIONS**

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

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

## **LOCATION PLAN**



**Map not to scale - for identification purposes only**

## **1. SUMMARY OF APPLICATION**

Kirklees Council Capital Development has identified a requirement for Basic Needs Pupil Place Provision in the Crosland Moor Area of Huddersfield in the form of a new 3 Form Entry (630 Pupil Place) Primary School. The new school will come into formal existence in spring 2016, however the purpose built permanent school will not be formally ready to accept pupils until Autumn 2017. In order to accommodate new pupils in the interim there is a requirement for temporary modular accommodation for up to 18 months, with up to 90 pupils in September 2016 and up to another 90 pupils in September 2017.

The proposals relates to the erection of 750 sqm of portable modular buildings required for a community use. This would meet the identified need for a primary school facility in the Crosland Moor area of Huddersfield for 180 pupils. The buildings in the siting and scale shown would preserve the amenities of nearby residents without adverse impact on visual amenity in the context of the surrounding development. The traffic generated by the proposals could be accommodated on the surrounding highway network, without materially adding to highway safety or environmental issues.

There will be additional comings and goings associated with the temporary primary school and local residents may experience some impacts on their amenity, particularly around the drop off and pick up parts of the school day. However, the scale of the impact on residential amenity is limited by the temporary nature of the school and the planning conditions attached to the recommended decision notice.

Overall the proposals accord with the relevant government guidance in the NPPF and policies within the UDP

In addition, at the end of the required temporary period, all buildings, access road and services would be removed and the site/land re-instated to its original levels and condition which would outweigh any harm caused by the temporary use of this area of urban greenspace.

### **RECOMMENDATION: GRANT TEMPORARY PERMISSION UNDER REGULATION 4**

## **2. INFORMATION**

The application is brought to Committee at the request of Cllr Molly Walton who states:

“Where they propose a gate to the estate there is a child's play area adjacent and kids being kids they get excited when playing and will run in and out without even looking. As yet there has not been an accident but the kids have grown up with the local residents' cars as they are now and certainly not regular large vehicles visiting.

The proposals to have school meals delivered suggests at least two wagons a day plus other deliveries and I think this is an imposition on to land the school do not own. The school grounds are quite large and I would expect a good construction company and designer to manage an entrance which would not intrude into a local small residential area.

I have had a long association with the school having been a governor and Chair for many years since it opened but I cannot let that impede on the safety and comfort of residents living environment and would value the views of other committee members”

The Chair of the Sub Committee has confirmed that Councillor Molly Walton’s reason for making this request is valid having regard to the Councillors’ Protocol for Planning Committees.

### **3. PROPOSAL/SITE DESCRIPTION**

#### **Site description:**

The application red line relates to part of Moor End Academy’s grounds north west of the main building. This area mainly comprises of a hard surface accommodating playing courts with soft embankments to the north, east and west perimeters of the playing courts which separate the school grounds from residential properties on Dryclough Road, Wellfield Bank and Gilbert Grove, beyond. Adjacent to the application’s northern boundary, is a small equipped children’s play area within the cul-de-sac Wellfield Bank.

Existing access points onto the school grounds are the main entrance from Dryclough Road and Waterwheel Rise. There is also a gated access adjacent to no. 69 Dryclough Road, which does not appear to be in use. Apart from these access points the school grounds are bounded by a palisade fence.

#### **Proposal:**

The application seeks temporary permission for the erection of modular school buildings and associated works. This is required to accommodate the demand and need for primary school facilities for a period of 18 months to accommodate up to 90 pupils, in September 2016 (this will include 30 children to be transferred from Dryclough Infant School) and up to a further 90 pupils in September 2017, of reception age, from 4 years old.

The submitted drawings give two options which Members are asked to jointly consider and approve both options to allow the applicant flexibility when it comes to the final decision on which form of temporary buildings to erect:

Option 1 - three single storey modular buildings as shown on drawing no. A06  
Option 2 - two modular buildings with the larger unit comprising of an additional 95sqm at first floor level on the south west corner, as shown on drawing no. A07 with an overall height of 7m from ground floor level.

The proposed buildings are intended to be externally faced in plasticol coated finish with flat roofs and of standard modular design.

The associated works would consist of providing an access road for construction/refuse and delivery vehicles, linking it to the hammer head of Wellfield Bank cul-de-sac. The proposals would also provide a refuse storage and collection and delivery point adjacent to this access road to be served by the proposed gated access from Wellfield Bank. It is proposed to open the existing gated access adjacent to no.69 Dryclough Road and a new pedestrian gate point to be created from Gilbert Grove for parents to accompany the children to the modular buildings which may also allow access to the existing Moor End Academy School.

Staff parking is proposed to be accommodated within Moor End Academy's existing car park. No formal drop off/pick point is proposed.

The submitted information states that at the end of the required temporary period, all buildings access road and services will be removed and the site/land will be re-instated to its original levels and condition.

#### **4. BACKGROUND AND HISTORY**

2016/91168 – erection of single storey Portakabin building to be used as a temporary science classroom at Moor End Academy – PENDING

#### **5. PLANNING POLICY**

##### **Development Plan:**

D3 – Urban Greenspace  
BE1 – General Design Principles  
BE2 – Quality of Design  
EP4 – Noise Sensitive Developments  
T10 - Highway Safety  
G6 - contamination

##### **National Policies and Guidance:**

Core Planning Principles  
Chapter 7 – Requiring Good Design  
Chapter 8 – Promoting healthy communities  
Chapter 11 – Conserving and enhancing the natural environment

#### **6. CONSULTATIONS**

**K.C Highways DM** - No objections subject to the imposition of conditions (see assessment below)

**K.C Environmental Services** - no objections subject to conditions

**K.C Flood Management and Drainage** - No objections

**Sport England** - does not wish to raise an objection

## **7. REPRESENTATIONS**

The application has been advertised by site notice and neighbour notification letter. As a result 14 objections have been received. Below is a summary of objections raised:

- Highway safety concerns/ issues speeding on surrounding highway network
- Access and gated access from Wellfield Bank
- Lack of drop off and pick up facilities for parents
- Blocking up of drives on Dryclough Rd/ Wellfield Bank
- Increase in traffic at school pick up and drop off times which already suffers from high congestion on Dryclough Road and surrounding highway network
- Delivery vehicles will be unable to pass due to parked vehicles on both sides of road on Wellfield Bank
- Minimal staff parking proposed
- Need speed cameras/traffic control and to promote sustainable modes of transport

**Response:** the above issues have been considered in the highway section of the assessment below

- No evidence of traffic management plan

**Response:** to be conditioned as suggested by Highway Officers

- Cllr's should visit site at either pick up or drop off times to appreciate the current highway issues

**Response:** a site visit will be made by Members of the Committee in the morning on 12<sup>th</sup> May, the day of Huddersfield Committee

- Alternative site for school should be considered

**Response:** The applicants state, having gone through this process, this site was considered to be the most appropriate site for the temporary school modular buildings. Furthermore, on assessment of the proposals Officers are of the opinion the site can accommodate the proposals without causing detrimental impact on the surrounding development and the amenities of nearby residents.

- Will affect children's play area on Wellfield Bank

**Response:** The play area is enclosed by a small wall and rail fence. The traffic associated by the proposals during construction phase and servicing would need to be in accordance with the construction method statement and servicing conditions (nos. 6 & 9). This would further ensure the safety of anyone on the surrounding highway network and in close vicinity of the site is not significantly compromised.

## **8. ASSESSMENT**

### **General Principle/Policy:**

The existing school site is allocated as Urban Green Space (UGS) on the Unitary Development Plan (UDP) Proposals Map. On areas designated as UGS, policy D3 of the UDP applies. The community benefit element of the policy is not consistent with considerations of the National Planning Policy Framework (NPPF) particularly paragraph 74. However, the majority of the policy is in accordance with the NPPF. As such, policy D3 of the UDP should be afforded significant weight.

Policy D3 of the UDP stipulates that permission will not be granted unless the development proposed is necessary for the continuation or enhancement of established uses, or involves change of use to alternative open land uses, or would result in a specific community benefit, and in all case will protect visual amenity, wildlife value and opportunities for sport and recreation, or that it includes alternative provision of urban greenspace equivalent in both quantitative and qualitative terms to that which would be developed and reasonably accessible to existing users.

The proposed modular buildings within the school grounds are considered to be necessary for the continuation and enhancement of the established educational use, for it to continue to serve the needs of Kirklees residents. Therefore the principle of erecting the proposed temporary modular school buildings is considered to be acceptable and in accordance with policy D3 of the UDP.

Furthermore, whilst it is acknowledged the proposals are not consistent with paragraph 74 of the NPPF, given the proposals are for a temporary period where the site would be subsequently re-instated and more importantly the factors set below in terms of paragraph 72 of the NPPF, the principle of the proposed development is considered acceptable.

Members may recall the principle of development for a permanent school building on UGS, was also recently accepted by Strategic Committee Members under application no. 2015/90564 within the grounds of Royds Hall Community School.

Turning to para.72 of the NPPF, this states that:

*“...the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local Planning Authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:*

- *Give great weight to the need to create, expand and alter schools; and*
- *Work with schools promoters to identify and resolve key planning issues before applications are submitted”.*

As can be seen from the wording of paragraph 72, the NPPF gives great weight and importance to school based proposals. From a decision making perspective this should weigh considerably in favour of this proposal.

To summarise, as stated above a clear demand and need has been identified for a new school provision in the Crosland Moor Area. The proposals are for temporary modular buildings to accommodate this need for the interim period until proposals come forward for a permanent school building to meet the identified need and demand. In light of this, the proposals are given considerable weight and acceptable in principle given that it would provide a sufficient choice of school places to meet the needs of existing and new communities thus according with the 12<sup>th</sup> core planning principle of the NPPF and paragraph 72 and provision of Policy D3 of the UDP.

### **Sport England comments on principle of development:**

Turing to the comments from Sport England it is understood that the site forms part of, or constitutes a playing field, as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2015. The consultation with Sport England is therefore a statutory requirement.

Sport England has considered the application in light of the National Planning Policy Framework (particularly Para 74) and Sport England's Playing Fields Policy, which is presented within its Planning Policy Statement titled 'A Sporting Future for the Playing Fields of England'

Sport England's policy is to oppose the granting of planning permission for any development which would lead to the loss of, or prejudice the use of, all/part of a playing field, unless one or more of the five exceptions stated in its policy apply.

Sport England is of the opinion

"the proposed development results in a minor encroachment onto the playing field. However, having considered the nature of the playing field and its ability to accommodate a range of pitches, it is not considered that the development would reduce the sporting capability of the site. As such, Sport England is satisfied that the proposed development broadly meets the intention of the following Sport England Policy exception:

*E3 - The proposed development affects only land incapable of forming, or forming part of, a playing pitch, and does not result in the loss of, or inability to make use of any playing pitch (including the maintenance of adequate safety margins), a reduction in the size of the playing area of any playing pitch or the loss of any other sporting/ancillary facility on the site."*

Based on the above Sport England does not wish to raise an objection.

### **Impact on visual amenity:**

The application site is predominantly surrounded by embankments and open land with residential properties beyond on three sides. Moor End Academy school buildings are to the south. In the siting shown, the proposed modular buildings, taking into account the proposed scale together with the land levels of the surrounding land, would appear of appropriate scale and not detract from the visual amenity of the area or main school building.

The proposed building would be of a modular construction and, with Option B, in part of two-storey in scale. Due to the topography of the site in relation to surrounding development, the overall height of the tallest building at 7.0m would be comparable to or slightly lower than the ground level of the adjacent residential properties on Dryclough Road. Due to the distance to be retained between the adjacent dwellings, this relationship, as demonstrated on the submitted drawing ref: A07 (Site Section Elevations), is considered appropriate within the context of the school grounds and immediately surrounded development.

The appearance of the development is commensurate with the temporary nature of the proposal, and whilst such a design would not normally be acceptable for buildings of a permanent nature, in this instance, given its requirement for a temporary period only, the proposal is not considered to result in a significant long term detrimental impact on visual amenity. There are no objections to the design or appearance of either option proposed.

The proposals are considered to accord with the guidance set out within Policies D3, BE1 and BE2 of the Unitary Development Plan and government guidance contained within Part 7 of the NPPF.

### **Impact on residential amenity:**

In the siting shown, the proposed modular buildings would be in excess of 52m between properties to the west, on Dryclough Road, 24m at the nearest point to the properties on Gilbert Grove and approximately 30m to the nearest property on Wellfield Bank. As a result of this separation distance, it is considered that the siting of the modular buildings and proposed scale of the development in relation to existing nearby residential development would not have a significant detrimental impact on the amenities of these residential properties.

Turning to noise considerations, the proposals to provide modular buildings would in part replace the existing outdoor playing courts. There would be no material increase in noise levels from the proposed modular buildings which would provide internal teaching/activities in comparison to the external use of the existing playing courts. It is recognised that there would be a greater concentration of children using the external play areas associated with the primary school but given the established nature of this hard surfaced play area it is considered that this use would not cause undue harm during normal



school hours. The proposals would therefore not conflict with Policy EP4 of the UDP.

Highway issues are addressed in more detail below. However, taking into account the impact on amenities of the nearby residential properties from

- a) construction traffic,
- b) deliveries/ refuse collection/emergencies, and
- c) trips by parents/visitors (drop off and pick up)

it is considered the proposals would not cause a significant adverse impact on the amenities of nearby residents. This is because the applicant has advised the construction programme is likely to last approximately 5 weeks. Within these 5 weeks works will commence initially to complete the access road into the site from Wellfield Bank, prior to the works commencing on the foundations for the proposed modular buildings and associated turnaround area. This will provide a suitable functional access into the site and enable the delivery of ready assembled modular buildings with heavy traffic coming over a period of approximately 5 days. On delivery of the modular buildings, it is accepted further construction vehicles will visit the site to complete the installation to allow the modular buildings to be connected to utilities and for these buildings to be kitted out ready for its intended use.

With regards to deliveries, these will include school meals to be delivered on a daily basis in school terms times. Furthermore it is advised the school meals will be prepared locally and be delivered by the same contractor on a daily basis just before lunch times through the proposed gated access from Wellfield Bank, outside the pick-up and drop off times. Any other deliveries and servicing will also be made through the gated access. With regards to refuse collection, this would not be significantly different to the current servicing of Wellfield Bank. Furthermore, the site would accommodate a turn around area for service vehicles to enter the site and leave in forward gear, therefore not resulting on vehicles being parked on Wellfield Bank. Other than when in use for servicing and in emergencies the gated access will remain closed/locked at all times which can be controlled by condition. This is discussed in more detail below.

To summarise, it is acknowledged the proposals would generate an increased level of traffic movement on the surrounding highway network, creating some level of noise and potential disruption to nearby residents. However, this would be primarily over a short period of time. In addition the proposed school start and finish times to be staggered from the start and finish times of the existing Moor End Academy, would potentially reduce the level of disruption caused to the nearby residents, which is generally the norm on surrounding streets in close vicinity of schools. Thereby reducing the times of disruption and not giving rise to significant levels of disruption to the amenities of nearby residents for a temporary period till December 2017.

## **Highway issues assessment by Highway Officers:**

This is an application for the erection of portable modular buildings at Moor End Academy Dryclough Road Crosland Moor. The site is within school grounds which currently accommodate an existing academy for students aged between 11 to 16 years of age and provides extensive sports facilities including playing fields and hard surfaced play area. Its primary vehicular access is via Dryclough Road which is an unclassified adopted highway. The road can be described as a collector route which provides a link between Blackmoorfoot Road to the north and Beaumont Park Road to the south. There are currently two pedestrian access points into the site, from Dryclough Road and Waterwheel Rise. The site is approximately one mile from Huddersfield Town Centre.

Dryclough Road has standard zig-zag waiting restrictions outside the school entrance supported by a Traffic Regulation Order (TRO) and there are advisory no waiting driveway protection markings in place on some of the driveways close to the school. There are no waiting restrictions in place on Wellfield Bank.

The application is supported by a Transport Statement (TS) prepared by Sanderson Associates and a Design and Access Statement. These documents have formed the basis of the highways comments on this application.

The application is for the siting of pre-fabricated buildings to be used on a temporary basis for classrooms with a floor area of 750 m<sup>2</sup>. The buildings have the capacity to accommodate 180 pupils which will be introduced 90 in the first year and 90 in the second year. The buildings will be sited on a hard standing area to the north of the site towards Wellfield Bank.

When considering such applications from a highways perspective the main consideration would be traffic generation and any impact on road safety and existing residents. The intention is to use the classrooms for children of primary school age which are more likely to travel to school by car. There is a proposal for 30 children to be transferred from nearby Dryclough Infants School which is 500 metres to the north of the application site. The applicant has confirmed this would form part of the initial 90 pupils thereby reducing the admission number of pupils to Dryclough Infants School.

In terms of general traffic impact, schools normally generate high traffic generation periods between 08:25 and 8:55 also 15:00 and 15:30 (depending on opening times) with only the morning drop off period having any impact on the highway network peak hours. The TS has assessed traffic impact in the morning peak hours only and from a general traffic impact Highways find that this is acceptable. The assessment of traffic generated is based on the TRICs database which is a nationally acceptable data source which forecasts 31 additional vehicle movements in the morning peak. This traffic generation figure does not include the fact that 20% of children attending will come from the nearby Dryclough Infants School. Highways concerns in terms of traffic

impact relates to the drop off space currently available on the highway network in the area around the school which would be occupied by children being dropped at the existing school.

The TS promotes staggered school opening times. This could decrease drop off/pick up space demand on the highway network. The applicant has advised that the

- primary school classes would start from 9am and finish at 3:30pm.
- classes at the existing Moor End Academy currently start at 8.50 with a view to start classes at 8:45am and finish at 3:15pm,

However, it is also acknowledged both schools opening times would be from 8am for breakfast clubs. Obviously this will potentially add parking the surrounding highway network, however the staggered opening times will help alleviate some of the traffic parking issues at peak times, these being approximately between 8.25 to 8.50am and 3 to 3.15pm, the periods during which the heaviest level of on-street parking occurs.

The introduction of Traffic Regulation Orders (TRO's) have also been considered but they are likely to transfer parking to other more unsuitable residential areas creating additional road safety issues. A parking survey in this area has been included in the TS and using the traffic generation figure it estimates that there will be a need to accommodate an addition 26 on street parking spaces. The TS indicates that with the introduction of staggered opening times, additional parking demand can be accommodated on the surrounding highways. Therefore, in general traffic terms Officers do not envisage any highway capacity issues arising as a result of the proposed development. On balance Highway Officers support the proposals subject to the opening times of the proposed school being staggered by 15 minutes from the opening times of the existing school on this site.

In terms of traffic impact at a local level Highway Officers do have concerns about access to the school at points where children could be dropped off or picked up which are likely to impact on road safety and residential amenity (addressed above).

Officers would not support a permanent increase in traffic on Wellfield Bank which has a residential highway layout and serves as access to a children's play area. However, it is considered that limited access during the construction period and some limited servicing access in the long term can be safely accommodated along Wellfield Bank. This should not include pedestrian access into the school or staff parking access from Wellfield Bank, both of which would attract additional traffic and on street parking detrimental to road safety and residential amenity.

The submitted plans have been amended to reflect concerns raised regarding pedestrian access/staff parking from Wellfield Bank and the gated access from here would now only provide a servicing access. Gates would be manually locked and would not admit pedestrians or staff parking, which would significantly reduce vehicle movements and parking in this area. The

majority of service vehicles would be associated with school dinners/meals and Highway Officers therefore estimate a maximum of 8 additional vehicle movements along Wellfield Bank, which would be acceptable. However to ensure this is controlled, a specific condition is recommended to cover this servicing access via a servicing method statement. In addition, the submitted plans indicate adequate turning facilities within the application site which again would be conditioned to be retained for this purpose, to reduce any reversing movements in the carriageway of Wellfield Bank.

It is proposed to utilise Wellfield Bank for construction access which raises similar concerns regarding parking, road safety from the local residents of Wellfield Bank. The siting of modular buildings does not require substantial vehicle movements as most of the “construction” of the building takes place off site.

The TS indicates a construction phase lasting around 5 weeks, during that period it forecasts 3 – 5 days when heavy vehicles will deliver the buildings and component parts to the site. It is anticipated, outside those days deliveries to site will be limited to light service traffic by construction workers associated with fitting the units out. Therefore, in this instance Officers are satisfied with the use of Wellfield Bank for construction traffic and subject to a construction method statement first being approved. This can be conditioned which shall include details of deliveries and parking areas for construction workers to be clearly shown within the site. An approved construction method statement would also reduce accident potential on a construction site where children will be in close proximity.

In addition, the implementation of additional TRO's in some of the connecting streets around the development, where pedestrian/cycling access exists or where it is proposed, has been considered by the Highways Development Management Team. However, in this instance given the application is for temporary buildings to be provided for a temporary period, it was not considered appropriate. Highway Officers, do however state TRO's could be considered if plans to create permanent facilities on the site come forward for consideration.

### **Conclusion of highway issues:**

Educational establishments will always attract large number of car borne trips, which in this instance has been identified in the TS, and current Council policy is to promote more sustainable forms of transport. Whilst the application seeks permission for modular school buildings for a temporary period, the proposals are to ensure the demand is met in the interim period to allow a scheme to come forward for a permanent larger primary school in the school grounds. Although this is an application for the siting of temporary buildings in order to promote sustainable access for this and future applications for this site Officers consider it reasonable to request a Travel Plan, to include details for:

- the provision of 'live' and other bus/train information;
- provision of METRO passes;
- car sharing facilities
- the upgrade of bus stops and shelters where necessary;
- the introduction of working practices to reduce travel demand and
- the provision of on-site cycle facilities and information

and when these measures will be introduced. This will be included as a condition to which the applicant is agreeable to.

In addition, if this document is in place and operational it would assist any future planning application for a larger development on this site as it would have existing travel data and be able to forecast future travel patterns.

With regards to potential impact on road safety the TS provides accident data for the connecting highway network around the school. From the submitted information there have been 2 reported slight injury accidents on Dryclough Road in close proximity to the school in the last 5 years none of which involved pedestrians. Further along Dryclough Road towards its junction with Blackmoorfoot Road there have been a further 5 reported injury accidents. Of which 3 were slight on 2 serious injury accidents. Further examination shows that of these accidents 2 involved pedestrians of which 1 was a child and 1 was an adult.

From this information it would appear that there are no underlying road safety issues in this area that can be associated with the dropping off and picking up of children as Highway Officers consider:

- the local highway network has the capacity to accommodate the additional traffic generated by the development.
- access into the application site from Wellfield Bank can be controlled by condition and would only be used for construction traffic, deliveries/servicing and in emergencies.
- a construction method statement for works during the construction period and a servicing method statement once the development is brought into use is to be conditioned
- traffic and parking impact can be accommodated by the introduction of staggered class start and finish times for the existing and proposed schools
- on review of the submitted accident data there are no underlying road safety issues around the school and of the reported accidents over the last 5 years. Only one involves a child pedestrian.
- Condition a Travel Plan
- The access to the site is permeable with several pedestrian cycle access points around its boundary.

On this basis the Highways Development Management Team can see no sustainable highways reason to object to this application subject to the above suggested conditions, should Members be minded to approve the application.

**Objections:**

Addressed above

**Other issues:**

Environmental Health Officers, on assessment of the submitted contaminated land report by RGS, agree with its findings/recommendations which identifies measures to protect the new building. Therefore, a full remediation strategy will be required before development commences. This can be conditioned. This would be in accordance with Policy G6 of the UDP and Chapter 11 of the NPPF which seek to prevent new and existing development being adversely affected by unacceptable levels of pollution.

**Conclusion:**

The proposals are for temporary buildings required to accommodate the demand and need for a community use, in particular a school facility. Given the minimal impact on visual amenity and surrounding highway network has the capacity to sufficiently accommodate the traffic likely to be generated by the proposals.

In addition the site would be re-instated following removal of the building, in accordance with a scheme of replanting, the purpose of the development would outweigh any harm caused by the temporary loss of this area of urban greenspace.

**9. RECOMMENDATION****GRANT TEMPORARY PERMISSION UNDER REGULATION 4**

1. The modular buildings shall cease use on 31<sup>st</sup> December 2017. Before May 2018 the modular buildings shall be wholly demolished and the land shall be restored to its condition prior to the implementation of the development.
2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence
3. Prior to the modular buildings being brought into use, the pedestrian access points as shown on drawing no. A01 rev A, namely from Dryclough Road and Gilbert Grove shall be provided and made operational and retained thereafter whilst ever the modular buildings are in use.

4. Prior to the modular buildings being brought into use, details of the start and finish times for the use of the modular buildings as classrooms, which shall be staggered from the school hours of the main building constituting Moor End Academy, shall be submitted to and approved in writing by the Local Planning Authority. The temporary school shall operate within the times specified thereafter. The times of operation of the breakfast and after school clubs at Moor End Academy are unaffected.

5. The gated vehicular access proposed from Wellfield Bank as shown on drawing no. A04 Rev A, shall remain locked at all times other than when used in association with servicing of the site, including construction traffic, deliveries and in emergencies only.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) there shall be no staff or pedestrian access to the development from Wellfield Bank

7. Prior to first use of the temporary school a method statement setting out how the hereby approved development will be serviced including details of:

- times of servicing,
- the size and type of vehicle that will service the site,
- loading and unloading of vehicles, and
- how servicing will be managed including the control of the access gate onto Wellfield Bank

shall be submitted to and approved in writing by the Local Planning Authority. The temporary school shall be serviced in accordance with the approved details for the lifetime of the development.

8. The modular buildings shall not be brought to site until the access road from Wellbank and the turning area as shown on approved drawing no. A04 Rev A has been made operational.

9. The modular buildings shall not be brought into use until all areas indicated to be used access and servicing on the submitted plans have been laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13<sup>th</sup> May 2009 (ISBN 9781409804864) as amended or any successor guidance. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) these areas shall be so retained, free of obstructions and available for the uses specified on the submitted/ plans

10. Prior to the commencement of development, a schedule of the means of access to the site for construction traffic shall be submitted to and approved in writing by the Local Planning Authority. The schedule shall include:

- point of access for construction traffic,
- construction workers parking facilities
- times of use of the access,
- turning/manoeuvring facilities,
- vehicle routing of construction traffic to and from the site
- traffic management,
- signage,
- where vehicles will be loaded unloaded, and
- mud prevention measures
- Hours of construction and construction deliveries

The hereby approved development shall thereafter be carried out in complete accordance with the approved details

11. Within the first 3 months of any part of the development being brought into use, a travel plan shall be submitted to and approved in writing by the Local Planning Authority. The travel plan shall include measures to improve and encourage the use of sustainable transport. The measures will include as a minimum:

- the provision of 'live' and other bus/train information;
- provision of METRO passes;
- car sharing facilities
- the upgrade of bus stops and shelters where necessary;
- the introduction of working practices to reduce travel demand and
- the provision of on-site cycle facilities and information.

The Travel Plan will include details of when these measures will be introduced. To support the promotion of the use of sustainable modes the travel plan will also include: how the travel plan will be managed; targets aimed at lowering car use, particularly single occupancy trips, from/to the site; a programme for monitoring the travel plan and its progress and how the travel plan and its objective of more sustainable travel will be promoted. The approved travel plan shall thereafter be adhered to at all times

12. Development shall not commence until a Remediation Strategy has been submitted to and approved in writing by the local planning authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.



13. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition no. 12. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered [in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report] is identified or encountered on site, all works on site (save for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Unless otherwise agreed in writing with the local planning authority, works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the local planning authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

14. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the local planning authority. Unless otherwise agreed in writing with the local planning authority, no part of the site shall be brought into use until such time as the remediation measures for the whole site have been completed in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the local planning authority.

**Footnote to be applied to all applications**

All contamination reports shall be prepared in accordance with CLR11, PPS23 and the Council's Advice for Development documents or any subsequent revisions of those documents.

This recommendation is based on the following plans and specifications schedule:-

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location plan showing proposed and existing pedestrian access points into site	A01	A	21 <sup>st</sup> Mar 2016
Topography and Services plan	A02		17 <sup>th</sup> Feb 2016
Contractors access & Compound	A03		17 <sup>th</sup> Feb 2016
Site Layout/block plan	A04	A	21 <sup>st</sup> Mar 2016
Site sections elevations extents	A05		17 <sup>th</sup> Feb 2016
Option A	A06		17 <sup>th</sup> Feb 2016
Option B	A07		17 <sup>th</sup> Feb 2016

**Application No: 2015/91832**

**Type of application: 70m - REMOVAL/VARIATION OF CONDITION**

**Proposal: Variation of conditions 27 (hours of opening) and 39 (floodlights) on previous permission 2011/92600 for demolition of existing building and erection of food store with associated car parking, landscaping, highways works and relocate existing sub station**

**Location: Lidl UK GmbH, Huddersfield Road, Holmfirth, HD9 7AG**

**Grid Ref: 414370.0 408795.0**

**Ward: Holme Valley South Ward**

**Applicant: Lidl UK GmbH - C/O Agent**

**Agent: Rebecca White, Nathaniel Lichfield & Partners**

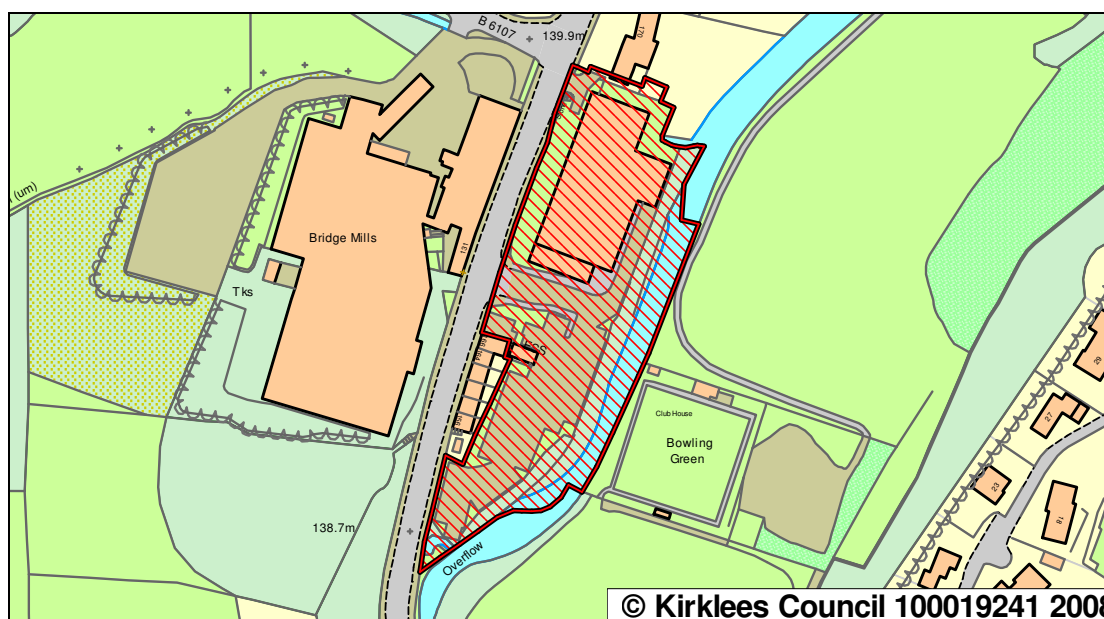
**Target Date: 13-Oct-2015**

**Recommendation: RMC - REMOVAL OR MODIFICATION OF CONDITION(S)**

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

**<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>**

## **LOCATION PLAN**



**Map not to scale – for identification purposes only**

## 1. SUMMARY OF APPLICATION

<b>Application Details</b>		
Type of Development	Application for variation of conditions relating to hours of opening from and hours of use of floodlights. Proposed to change hours of opening from 7am to 8pm Monday to Sunday to 7am to 10pm Monday to Sunday. Proposed to allow floodlights to be used up to 11pm instead of 9pm.	
Scale of Development	Site area: 0.75 hectares	N/A
No. Jobs Created or Retained	Unknown	
<b>Policy</b>		
UDP allocation	Unallocated	
Independent Viability Required	N/A	
<b>Consultation/Representation</b>		
Individual Support (No.)	N/A	
Individual Objection (No.)	2	
Petition	N/A	N/A
Ward Member Interest	Yes	Ward Cllr Nigel Patrick
Statutory Consultee Objections	No	
<b>Contributions</b>		
• Affordable Housing	N/A	
• Education	N/A	
• Public Open Space	N/A	
• Other	N/A	
<b>Other Issues</b>		
Any Council Interest?	No	
Pre-application planning advice?	No	
Pre-App Consultation Undertaken?	No	
<b>Comment on Application</b>	A temporary (12 month) permission is considered acceptable to allow a ‘trial run’ in which to assess the impact of the proposed change to the hours on the amenity of adjacent residential properties.	

**RECOMMENDATION: APPROVE TEMPORARY 12 MONTH PERMISSION**

## **2. INFORMATION**

The proposals are brought forward to the Huddersfield Planning Sub-Committee for determination in accordance with the Council's Scheme of Delegation at the request of Ward Councillor Nigel Patrick

*"Given that you have received objections from 2 of the residents and given that we had an agreement with the store on opening hours for the benefit of the amenity of the residents as a condition of the store being allowed to be built, I would not agree to a 12 month trial, and as such if that is the officer recommendation then can I ask that it goes to committee with a site visit. It is possible that some of the residents do not know about the application to extend the opening hours and keep the lights on longer. These residents live right next to the store, overlooking the car park which is lit when the store is open. The extension of hours will affect them all year with light pollution and noise. The light pollution through rear windows will be worse during the winter months. I remain disappointed that Lidl have done this.*

*When the initial planning application was made by Lidl for the store public meetings were held and I can remember residents attending those meetings express concerns about the opening hours. Conditions were placed on Lidl which Lidl agreed to. To attempt to extend the opening hours now puts profits before the amenity of those residents. That's why we need planning conditions to be kept in place."*

The Chair of Sub Committee has confirmed that Cllr Patrick's reason for making this request is valid having regard to the Councillors' Protocol for Planning Committees.

### **Site Description**

The application relates to a 0.75 hectare site which is accessed from Huddersfield Road. This is now occupied by Lidl supermarket, along with associated parking areas. It was formerly occupied by a traditional mill complex.

The site is located approximately 400m north of Holmfirth town centre on Huddersfield Road, which abuts the western boundary of the site along with a row of six stone-built terraced properties. The River Holme forms the eastern boundary of the site (with recreation grounds beyond), at a lower level below a retaining wall (the site slopes from west to east), while residential properties lie adjacent to the northern boundary. The southern boundary tapers off where the River Holme abuts Huddersfield Road.

### **Proposal**

The application is for variation of condition 27 (hours of opening) and condition 39 (floodlights) on previous permission 2011/92600 for demolition of existing building and erection of food store with associated car parking, landscaping, highways works and relocation of existing sub-station.

Condition 27 states:

*“The store hereby permitted shall not be open to customers outside the hours of 0700 to 2000 Monday to Sunday inclusive, other than on up to ten occasions per annum when the store is permitted to open until 2200 hrs.*

**Reason:** *In the interests of safeguarding the amenities of residents arising from noise; and to accord with Policies D2 and EP4 of the Unitary Development Plan, and national planning policy guidance in PPG 24.”*

Condition 39 states:

*“The floodlights hereby approved shall not be operated between the hours of 2100 to 0730 on any day of the week.*

**Reason:** *In the interests of safeguarding the amenities of residents arising from stray light during unsociable hours / night-time; and to accord with Policies D2 and EP4 of the Unitary Development Plan, and national planning policy guidance in PPS 23.”*

The applicant wishes to vary condition 27 to read:

*“The store hereby permitted shall not be open to customers outside the hours of 0700 to 2200 Monday to Sunday inclusive.”*

Linked to this, the applicant also wishes to vary the hours of operation of the floodlights set out by condition 39 as follows:

*“The floodlights hereby approved shall not be operated between the hours of 2300 to 0730 on any day of the week.”*

#### **4. BACKGROUND AND HISTORY**

2011/92600 – Demolition of existing building and erection of food store with associated car parking, landscaping, highways works and relocate existing sub-station. – Approved

2012/92642 - Installation of illuminated signs. – Granted at appeal.

2012/91305 – Discharge of conditions 11 & 14 on previous permission

2011/92600 - Approved

2014/93963 - Advertisement consent for erection of 1 illuminated fascia sign - Granted.

## **5. PLANNING POLICY**

The site is unallocated in the UDP.

### **Kirklees Unitary Development Plan:**

- **D2** – land without notation on the proposals map
- **BE1** – Design Principles
- **EP6** - Development and Noise

### **National Planning Policy Framework:**

- Core Planning Principles
- Chapter 8 – Promoting Healthy Communities
- Chapter 11 – Conserving and Enhancing the Natural Environment

### **Other considerations:**

Planning Practice Guidance

## **6. CONSULTATIONS**

The following is a brief summary of the consultation responses received. Where necessary, these consultations are reported in more detail in the assessment below:

**K.C. Environmental Services** – Agree with the conclusions of the noise report regarding the minimum impact on ambient noise levels at the rear of existing residential properties that would result from the change to the store opening hours. However, it is recommended that a 12 month temporary consent is granted to assess the impact on noise when operational. A 12 month temporary consent will also allow the impact of the floodlighting on adjacent residential properties to be assessed.

**West Yorkshire Police Architectural Liaison Officer** – Following consultation with the Neighbourhood Policing Team no objections.

## **7. REPRESENTATIONS**

The application has been advertised by neighbour letter, newspaper advertisement and site notice. This publicity period expired on 31<sup>st</sup> July 2015.

Two representations have been received which are in objection to the application. The objectors' properties lie to the west of the site and back onto the Lidl car park. The points raised are summarised as follows:

- Extended opening times will mean more traffic, noise and pollution
- Floodlights will result in light pollution and impinge on privacy

- The removal of trees within the site has meant that floodlights belonging to the adjacent bowling club are affecting residential properties
- Promises have been made with respect to car park security (eg gates/bollard system), but no such measures are in place
- Car park is being used as an extension of Sands recreation ground
- Existing problems of anti-social behaviour would worsen if the hours are extended
- Supermarket appears to be little used by 8pm already – see no reason why they need to extend the hours
- Profits of Lidl should not be put before resident's quality of life

Ward Councillor Nigel Patrick has emailed about the application and stated on the 10<sup>th</sup> July 2015,

*"I object most strongly to this application. The reason the condition was put on in the first place was to protect the amenity of the neighbouring residential properties and that has not changed. Frankly I am very disappointed with Lidl, having agreed to a number of conditions to enable planning permission for the store it would appear that one by one they are applying to vary those conditions. One example was the number of signs on the store. That was to be minimal, but they have applied for more signage since the store was opened. Conditions are there for a reason, in this case with the residents in mind and the original conditions for opening hours and flood lights should remain in place."*

Cllr Patrick also emailed on the 29<sup>th</sup> September 2015. The detail of this email is set out in the 'Information' section above.

**Holme Valley Parish Council** – *"Object to the application - Condition 27 should stand (as noise potential still exists). Condition 39 should stand as well, due to floodlights having a detrimental impact on neighbouring properties."*

## **8. ASSESSMENT**

The applicant wishes to vary condition 27 (of permission 2011/92600) to allow the following opening hours:

*"The store hereby permitted shall not be open to customers outside the hours of 0700 to 2200 Monday to Sunday inclusive."*

Linked to this, the applicant also wishes to vary the hours of operation of the floodlights as follows:

*"The floodlights hereby approved shall not be operated between the hours of 2300 to 0730 on any day of the week."*

The applicant's supporting statement contends that *"the restrictions placed upon the opening hours are having a harmful effect on (Lidl's) ability to successfully operate the store."*

The applicant has expanded on the above statement with the following:

*"The NPPF states that, in pursuit of sustainable development, the planning system should support existing business, and take into account their plans to expand. Paragraph 26 also places emphasis upon the need to enhance local consumer choice. Indeed, shopping habits generally have changed markedly over recent years and flexibility is now fundamental to the success of many retail operators' business models. The extension to Lidl's opening hours would ensure the long-term successful operation of the store, and better meet the needs of the local community of Holmfirth by offering increased flexibility and choice for customers. In addition, the application site is located just 450m walking distance from Holmfirth Town Centre, and would be likely to result in additional linked trips to other in-centre facilities".*

With regard to the proposed extension of hours for the floodlights, the applicant's supporting statement states, *"This is in order to facilitate the safe operation of the store, reducing the opportunity for crime and improving safety around the store."*

The applicant has expanded on the above statement with the following:

*"The NPPF also makes clear that planning decisions should create safe and accessible environments in terms of crime and disorder. It is widely accepted that passive surveillance is one of the key tools in reducing crime. Through the provision of extended opening hours and floodlighting, and the associated activities of staff at the store, passive surveillance during these times would be significantly improved; thereby enhancing the overall amenity of the local area".*

For information, condition 28 of consent 2011/92600 remains in place (with no variation proposed) and states:

*"Unless otherwise agreed in writing by the Local Planning Authority, there shall be no deliveries to or dispatches from the store outside the hours of 0730 to 20.00 Monday to Saturday, and 1000 to 1600 Sundays and Bank Holidays inclusive."*

In terms of Policy context, paragraph 18 of the NPPF states that, *"The Government is committed to securing economic growth in order to create jobs and prosperity."*

The applicant has stated that *"The new opening hours will result in additional contractual hours becoming available for existing Lidl staff, many of whom live locally and in turn spend their own money in other local shops and services in Holmfirth Town Centre. This increase in pay would therefore have a knock-on*



*positive impact upon the health of the local economy and other Town Centre services”.*

Officers consider that the extension of the supermarket's opening hours would help to support the overarching principle of economic growth. This is subject to balancing this benefit against the impact of such changes on the amenities of nearby residents.

### **Impact on amenity:**

The impact of the proposed alterations to hours (of the store & floodlights) has been considered in conjunction with colleagues from Environmental Services and in relation to Policies BE1, D2 and EP6 of the UDP and Chapter 11 of the NPPF.

The closest residential properties to the site are number 170 Huddersfield Road (to the north) and numbers 156, 158, 160, 162, 164 & 166 Huddersfield Road which border part of the western boundary of the site.

### **Noise:**

Environmental Services initially raised concerns with the variation to the store opening times. This was on the basis that the residential properties that lie to the west of the site have their only external amenity space to the rear which borders the supermarket car park. Therefore the extension of the store opening times could increase the potential for noise disturbance to these neighbouring residents.

In response to these concerns a noise report has been submitted by the applicant. The report concludes that the later opening hours would have the minimum effect on ambient noise levels at the rear of the properties to the west of the site. The level and nature of noise that is likely to be associated with the two hour extension to the store opening time would not significantly affect the acoustic character of the area, and not to an extent that it would have any significant impact on the living conditions of neighbouring residents.

Environmental Services concur with the conclusions of the noise report. The measured noise levels are typical for an urban environment such as this and the report demonstrates that the use of the car park by Lidl customers during the additional opening hours would have negligible effect on the ambient measured noise at the rear of the nearest residential properties (156-166 Huddersfield Road). Nevertheless, it is considered that the proposed opening hours are restricted to a 12 month temporary permission to enable the noise impacts to be assessed during this period.

Environmental Services have not received any complaints in respect of the use of the car park since the store opened although a representation from one of the adjacent residential properties to the west of the site states that the extended opening hours will result in more noise, for example from the slamming of car doors and engines running. Officers recognise that in certain

circumstances loud intermittent noise can be problematic however it is considered that intermittent noise associated with the car park use would not generally be of a nature that would cause serious annoyance. The noise report comments that:

*“Subjective aural observations during the noise survey were that noise associated with cars entering the store car park/parking-up/leaving the store car park was audible but did not alter the acoustic character of the area and would not have given rise to any change in behaviour. Noise associated with the A6024 Huddersfield Road remained dominant.”*

Given the conclusions of the noise report and the absence of any formal noise complaints relating to the use of the car park since the supermarket opened, Officers are of the opinion that a 12 month temporary consent to enable a ‘trial run’ in which the noise impacts of the extended opening time can be assessed is acceptable.

#### Light spill:

The extension to the operation of the floodlighting is necessary to facilitate the extended store opening times.

The proposed change to the floodlighting would mean that any light spill or glare that currently affects the adjacent residential properties would be extended later into the evening where it could potentially have more of a perceived effect on living conditions. Having said that, the external lighting for the site has been designed to minimise light spill, with siting, design and specification details approved under the original application.

The approved lighting scheme for the car park has a maintained average illuminance level across this car park of 10 lux, with a uniformity of 0.25. To put these figures into context, The Chartered Institute of Building Services Engineers (CIBSE), in their Lighting Guide 6 (LG6 The Outdoor Environment 1992) recommend a level for external car parks of between 10 and 20 lux, with a uniformity level of 0.25 to enable a safe/secure environment for pedestrians/vehicles. The proposed lux level at the Lidl car park is therefore at the lower end of the recommended range with the uniformity figure correct for this type of car park.

The approved lux level (10) within the car park is also at the lowest end of the range in relation to published guidance from the Institute of Lighting Engineers regarding the reduction of light pollution. The site is within an urban area with a mixture of uses including residential and in such locations the average lux level is recommended to be an average of 30 lux with a minimum of 10 lux.

The approved lighting scheme for the car park does not exceed industry standards and there have not been any complaints to Environmental Services relating to the operation of the floodlighting since the store opened. Both objectors have raised concerns with the potential impact of the extended use of the floodlights although the representations do not suggest that the lighting

to the car park is currently causing any particular problems. A specific issue with floodlighting at the nearby bowling club has been raised but this is a separate matter and would appear to have been resolved.

Whilst the lighting would be extended later into the evening period, it is worth commenting that the floodlights would not be in use during the 'night-time' period of 11pm to 7am when it is generally accepted that the average person should expect to be able to sleep without light/noise issues affecting them. This 11pm to 7am night-time period is established by numerous industry standards.

As no physical changes to the floodlighting are being proposed and in the absence of any formal complaints relating to the existing use of the floodlights it is considered that a temporary permission allowing a 12 month 'trial run' would be appropriate in order to assess the impact of the later operation of the floodlighting on adjacent residential properties.

### Conclusion:

In conclusion, whilst this is a finely-balanced case, it is considered that a temporary permission can be justified in planning terms and when balanced against the benefit of supporting economic growth.

If complaints about noise or nuisance associated with the supermarket are received during the trial period and these complaints are substantiated then it is unlikely that the extension to hours of either the store or floodlighting would be supported by Officers on a permanent basis.

It should be noted that Planning Practice Guidance advises that it will rarely be justifiable to grant a second temporary permission - further permissions should normally be granted permanently or refused if there is clear justification for doing so. Also, there is no presumption that a temporary grant of planning permission should be granted permanently.

The proposed variation to conditions 27 & 39 is considered acceptable subject to a temporary consent. The application satisfies Policies BE1, D2 and EP6 of the UDP and chapter 11 of the NPPF.

### **Highway safety:**

It is considered that the proposed extension of hours would not have any material impact on highway safety and thus the application accords with policy T10 of the Kirklees Unitary Development Plan.

## Other matters:

The NPPF states at paragraph 58 that planning decisions should aim to achieve places which promote 'safe and accessible environments' where crime and disorder, and the fear of crime, do not undermine quality of life."

West Yorkshire's Police Architectural Liaison Officer has been consulted on the application and has commented as follows:

*"I have no comments adverse to the approval of this planning application.*

*I have consulted with the local area's Neighbourhood Policing Team, and am informed that they are not aware of any significant problems that would necessitate an objection to the application.*

*With regard to the possibility of youths congregating in the vicinity of the store and car park, it is likely that the store closing at the later time of 10pm would increase routine surveillance there later into the evening, and help to deter incidents of nuisance."*

The Police Architectural Liaison Officer has confirmed that there have been no reported instances of anti-social or criminal behaviour associated with the use of the car park since the above comments were made (as of end of April 2016).

## Representations:

Insofar as representations received that have not been addressed in the above assessment these are answered as follows:

- Extended opening times will mean more traffic, noise and pollution
- Floodlights will result in light pollution and impinge on privacy

**Response:** The impact on noise and light pollution has been addressed above. With regard to any other forms of pollution, such as air pollution associated with vehicles, it is considered that the increased activity resulting from the later opening hours is likely to be relatively limited and would not significantly alter the existing situation. In terms of the impact on privacy, it is considered that the later opening times would not materially affect the privacy of neighbouring residents given the established opening hours of the store.

- Car park is being used as an extension of Sands recreation ground

**Response:** The use of the car park by non-Lidl customers is a matter for the applicant to control.

- Existing problems of anti-social behaviour, which would worsen if the hours are extended

**Response:** The local Neighbourhood Policing Team has been consulted and raised no objections as noted above.

- Promises have been made with respect to car park security (eg gates/bollard system), but no such measures are in place

**Response:** The application has been assessed on its planning merits based upon the information submitted. Specific security measures are a matter for the applicant.

- The removal of trees within the site has meant that floodlights belonging to the adjacent bowling club are affecting residential properties

**Response:** Both of the objectors have cited an issue with the floodlighting at the nearby bowling club which arose when some trees were removed within the application site. This problem would appear to have now been resolved. This is a separate issue and is not material to the assessment of this application. It is nevertheless worth noting that the specification of the Lidl car park flood lighting is likely to be different to that of the bowling club.

- Supermarket appears to be little used by 8pm already - see no reason why they need to extend the hours

**Response:** Noted but this statement does not materially affect the assessment of the application.

- Profits of Lidl should not be put before resident's quality of life

**Response:** Noted. Weight has been apportioned in the consideration of residential amenity and supporting economic growth.

## **10. RECOMMENDATION**

### **APPROVE TEMPORARY 12 MONTH PERMISSION**

#### **New/varied conditions:**

1a. Except for the circumstances referred to in condition 1b, the store shall not be open to customers outside the hours of 0700 to 2000 Monday to Sunday inclusive, other than on up to ten occasions per annum when the store is permitted to open until 2200 hrs.

1b. Notwithstanding the requirements of condition 1a, for a 12 month trial period commencing from (date of approval of the application) the store shall not be open to customers outside the hours of 0700 to 2200 Monday to Sunday inclusive. At the end of the 12 month trial period condition 1b shall expire and condition 1a shall thereafter apply in its entirety.

2a. Except for the circumstances referred to in condition 2b, the floodlights within the site shall not be operated between the hours of 2100 to 0730 on any day of the week.

2b. Notwithstanding the requirements of condition 2a, for a 12 month trial period commencing from (date of approval of the application) the floodlights within the site shall not be operated between the hours of 2300 to 0730 on any day of the week.

**Existing conditions to be re-imposed:**

3. There shall be no deliveries to or dispatches from the store outside the hours of 0730 to 20.00 Monday to Saturday, and 1000 to 1600 Sundays and Bank Holidays inclusive.

4. The net sales area of the store hereby permitted shall not exceed 1,063m<sup>2</sup> and the floorspace devoted to the sale of comparison goods within this net sales area shall not exceed 213 m<sup>2</sup>.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) Order 2015 as amended (or any Order revoking or re-enacting that Order) no extensions to the store either on or projecting beyond the northern elevation included within Class A of Part 7 of the Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority.

This recommendation is based on the following plans and specifications schedule:-

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Supporting letter	Prepared by NLP & dated 4/6/15	-	17/6/15
Noise Report	Prepared by ENS Ltd & dated 15/3/16 (NIA/6522/16/6445/v2)	-	15/3/16

**Application No: 2016/90373**

**Type of application: 62 - FULL APPLICATION**

**Proposal: Change of use of 1st floor room to taxi office**

**Location: Pink Fusion Lounge, Sheffield Road, New Mill, Holmfirth, HD9 7JT**

**Grid Ref: 416276.0 408823.0**

**Ward: Holme Valley South Ward**

**Applicant: Mr Mohammed Abaidullah**

**Agent: P F Holleworth**

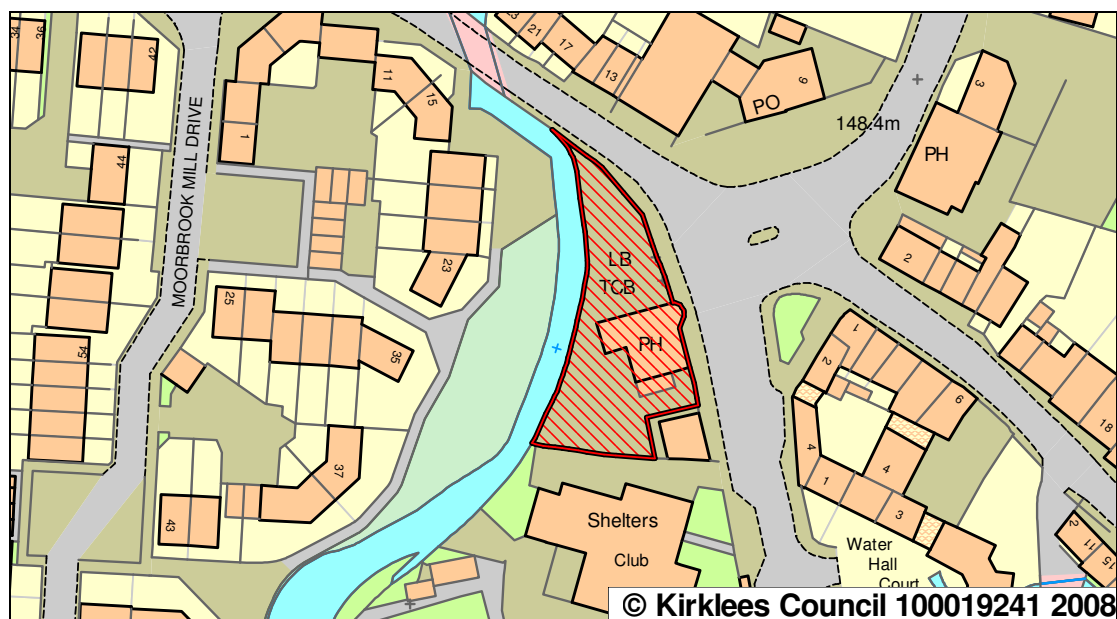
**Target Date: 13-May-2016**

**Recommendation: FC - CONDITIONAL FULL PERMISSION**

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

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

## **LOCATION PLAN**



**Map not to scale – for identification purposes only**

## **1. SUMMARY OF APPLICATION**

The application seeks full permission to operate a taxi office following a temporary 12 month trial run to assess the impacts of the development on highway safety and residential amenity. There is no demonstrable evidence to suggest that the development has given rise to any significant or undue harm during the trial period and in such circumstances the application is considered to be acceptable.

## **RECOMMENDATION: CONDITIONAL FULL PERMISSION**

## **2. INFORMATION**

The application is brought forward to the Huddersfield Planning Sub-Committee for determination at the request of Ward Councillor Nigel Patrick. Councillor Patrick's reason for making the request is:

*“My concerns are with taxis parking at the site and at other sites where they have no planning permission to park and where they have no license to park. That creates noise nuisance and highways safety issues. Once the Midlothian site is developed the taxis will have to find another site. It is unacceptable to me that planning permission can be permitted without controlling where the taxis park”.*

The Chair of Sub Committee has confirmed that Cllr Patrick's reason for making this request is valid having regard to the Councillors' Protocol for Planning Committees.

## **3. SITE DESCRIPTION/PROPOSAL**

The application site is the former Duke of Leeds public house which is now used as a restaurant (Pink Fusion Lounge). The building is two storeys in height and constructed of brick with a tiled roof. There is designated parking to the north and south of the building. The application relates to a first floor room at the rear of the property; an external staircase (fire escape) at the rear of the building provides access to the first floor level.

The application seeks permission to operate a first floor room within the building as a taxi office. The taxi office has already been operating under a temporary one year permission that was allowed on appeal under application reference 2014/91811. The applicant is now seeking a permanent permission.

The application confirms that the office would operate 24-hours a day with a maximum of two staff occupying it, with occasional visits from two taxi drivers that are based in the New Mill area during their tea/comfort breaks.



#### **4. BACKGROUND AND HISTORY**

2014/91811 Change of use of 1<sup>st</sup> floor room to taxi office – Refused on highway safety grounds and appeal upheld (temporary permission granted)

#### **5. PLANNING POLICY**

##### **Development Plan:**

The site is unallocated on the UDP Proposals Map

- **D2** – land without notation on the proposals map
- **S15** – Control and administration of private hire vehicles
- **EP4** – Noise-sensitive and noise-generating development
- **T10** – Highway safety

##### **National Policies and Guidance:**

- NPPF - Core planning principles
- NPPF chapter 3 – Building a strong competitive economy
- NPPF chapter 8 – Promoting healthy communities
- NPPF chapter 11 – Conserving and enhancing the natural environment.

##### **Other considerations:**

Planning Practice Guidance

#### **6. CONSULTATIONS**

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

**KC Highways Development Management** – No objections

**KC Environmental Services** – No objections subject to conditions on the previous permission being repeated

**KC Licensing** – Confirm that there has been a private hire operating licence in place at the premises since the planning was granted under the name of New Mill Cars. No complaints have been received in relation to this business since planning permission was approved. No specific objections raised to the application.

## **7. REPRESENTATIONS**

Application advertised by site notice and neighbour letters

Representations: 2 received

Representations summarised as follows:

- Application site includes land not within the applicant's ownership (Land Registry documentation has been provided to support this assertion)
- Unclear how many drivers will be operating from the site
- Increased traffic accessing the site (across a pavement) poses a danger to public safety, particularly the elderly living in nearby sheltered housing
- Increased traffic and congestion in New Mill
- Surrounding area will be 'clogged up' with taxis waiting for fares; this is already a problem at the Holmfirth Road recreation ground car park and on side roads like Greenhill Bank Road
- Pink Fusion car park is small and fills up quickly with customers
- Taxi office unsuited to this location

**Holme Valley Parish Council** – "Support the application"

**Councillor Nigel Patrick** – Councillor Patrick has raised noise and highway safety concerns in relation to taxis parking at the application site and at other sites where they do not have permission/licence to park.

Councillor Patrick has made the following comment on the application (16/3/16):

*"You may have no objections (from Highways or Environmental Services) because the taxis are parking on private land at the Midlothian site and not in New Mill. The Midlothian site was approved for housing last Thursday and I expect the owners to fence off the site. So where are the taxis going to park? As far as I know they do not have a license or planning permission or consent from the owner to park at the Midlothian site. I've had complaints from residents about taxis using that site. So where will they be parking or are you not concerned about that? If you approve the application I'd like to see a condition put on it about taxi parking. There is insufficient information in the application to tell us where they intend to park. I don't want to see them parking in the middle of New Mill. I don't want to see them parking in New Mill Car Park. I want to see the parking controlled in the interests of road safety and the amenity of local residents. That's where the noise, the disturbance and the road safety issues originate.*

*In addition I understand that there is a possibility that some of the land shown in the application belongs to a neighbouring property. Has that been addressed?"*

## **8. ASSESSMENT**

### **Background:**

Application 2014/91811 for change of use of 1<sup>st</sup> floor room to taxi office was refused in August 2014 on the following grounds:

*“The application site provides insufficient parking space for the number of private hire vehicles operating from the proposed taxi office without significantly reducing the level of parking provision for the existing restaurant; this would displace vehicles associated with the restaurant to other locations and encourage indiscriminate parking on the surrounding highway network which would not be in the interests of highway safety. Further, the parking space within the application site is not guaranteed to be available at all times for the use of the private hire vehicles and consequently this is likely to lead to taxis parking on the public highway or displacing vehicles from public parking areas. The application is therefore considered to be contrary to Policies T10, S15 and D2 of the Unitary Development Plan.”*

An appeal against the refusal was allowed in February 2015. This allowed a temporary 12 month permission to assess the effect of the development upon both parking/highway safety and the amenity of local residents. The permission limited the number of licensed hire vehicles parking or waiting in the car park to 2 vehicles and prevented the picking up or depositing of passengers and no waiting by passengers at the taxi office; this was in the interests of highway safety and the living conditions of local residents.

### **General principle:**

Application 2014/91811 has established the principle of development and it is considered that the principle of development remains acceptable subject to highway safety and amenity considerations in the context of Policies D2 and S15 of the UDP.

The 12 month permission was intended as a ‘trial run’ to assess the effect of the development upon both parking/highway safety and the amenity of local residents; these are the two main issues for consideration.

It should be noted that Planning Practice Guidance advises that it will rarely be justifiable to grant a second temporary permission - further permissions should normally be granted permanently or refused if there is clear justification for doing so. Also, there is no presumption that a temporary grant of planning permission should be granted permanently.

### **Highway safety:**

Highways Development Management has not raised any objections to the application. Consultation has been carried out with the Council’s Highway Safety Team who monitor issues in the New Mill area. The only issues arising in the area are associated with itinerant parking associated with a nearby

takeaway which is not associated with the taxi office. Kirklees Licensing have also confirmed that no complaints have been received since the temporary permission was granted on appeal.

Two objections have nevertheless been received in response to the publicity of the application. One of the objections raises general highway safety concerns relating to an increase in the number of vehicles accessing the site. The other objection raises more specific concerns about the surrounding area becoming 'clogged up' with taxis waiting for fares if the application is approved; the objector states that this is already a problem at the Holmfirth Road recreation ground car park and on side roads like Greenhill Bank Road – both of these locations are within the immediate vicinity of the application site. There is however nothing to suggest that the taxis referred to are associated with the applicant.

In the absence of any recorded highway problems that are directly associated with the taxi business operating from the site there are not considered to be any justifiable grounds to refuse the application on the basis of the impact on parking/highway safety. This is subject to the same limitations being imposed on the number of taxis operating from the site at any one time when the restaurant is open to the public (maximum of 2) and in relation to the picking up, depositing and waiting by passengers at the taxi office. Such restrictions would ensure that the development continues to operate on the same basis as the 'trial run' and would limit the impact on highway safety, particularly with regard to customer vehicles from the restaurant being displaced onto the surrounding highway network. In the circumstances the application is considered to comply with Policies T10, D2 and S15 of the UDP.

### **Amenity:**

Environmental Services have been consulted and have commented that to date there have been no complaints received about the taxi business operating from this site. The Planning Service and Kirklees Licensing have also not received any complaints about the business operating from this site.

In the absence of any complaints having been received it is assumed that the taxi office is operating without causing any significant harm to the living conditions of local residents. As such there are not considered to be any justifiable grounds to refuse the application on the basis of the impact on local amenity.

Environmental Services have recommended that the conditions on the previous permission are repeated in terms of limiting the number of taxis operating from the site and preventing the picking up or depositing of passengers and no waiting by passengers at the taxi office. This would ensure that the development continues to operate on the same basis as the 'trial run' and would limit the impact on the living conditions of nearby residents.

Condition 3 on the temporary permission restricted the number of taxis waiting at the premises to 2 no. at any one time when the restaurant is open to the public; this was to ensure that significant numbers of taxis did not regularly wait in the car park and displace customers of the restaurant onto the surrounding sections of highway. However, the appeal Inspector also commented that the risk of noise disturbance to nearby residential properties could be alleviated by limiting the number of taxis that could park in the restaurant car park at any one time, and not just when the restaurant is open to the public. Notwithstanding, the wording of the condition is such that it does not restrict the number of taxis waiting at the site when the restaurant is not open to the public, including during the night after the restaurant has closed.

Condition 3 does not therefore significantly alleviate the risk of noise disturbance late at night and early in the morning as the number of vehicles that could park is unrestricted (in planning terms) once the restaurant closes to the public.

Information submitted with the application confirms that the office would operate 24-hours a day with a maximum of two staff occupying it, with occasional visits from two taxi drivers that are based in the New Mill area during their tea/toilet breaks.

Taking into account the appeal Inspector's commentary on residential amenity issues and the proposed use of the site by the taxi business (as described above) Officers consider that it is reasonable to re-word condition 3 so that it restricts the number of vehicles parked/waiting at the site to 2 no. when the restaurant is open to the public (on highway safety grounds) and throughout the night once the restaurant is closed (on residential amenity grounds). It is considered that a restriction up to 08:00 would be reasonable to reduce the risk of disturbance to nearby residential properties during unsociable hours once the restaurant closes. Online information indicates that the restaurant is open 17:00 to 22:30 with slightly later opening on Fridays and Saturdays (23:00).

Subject to the aforementioned conditions, the application complies with Policies D2 (v) and S15 (ii) of the UDP.

### **Representations:**

Councillor Nigel Patrick has raised concerns around where taxis are parking. It has been suggested that there may not have been complaints about taxis associated with this business parking at the application site because they park on private land away from New Mill at the former Midlothian garage site (and are causing problems in that particular area). Councillor Patrick considers that a condition is necessary to control where taxis park because it is when taxis park in the centre of New Mill and New Mill car park when noise, disturbance and highway safety issues arise.

Kirklees Licensing have commented that New Mill Cars are linked to Honley & Holmfirth Cars based at Queens Business Park, Huddersfield Road, Honley. Licensing Officers are of the understanding that this is where most of the applicant's vehicles wait between jobs because they have rest facilities there.

With regard to the separate site referred to by Councillor Patrick (former Midlothian garage), Licensing have confirmed that a licence is not required to park here. The licensing requirements are for the booking office, vehicle and driver. Licensing has no control over parking away from booking offices other than if it is believed a driver is "plying".

Whilst New Mill Cars, which are the taxi firm registered at the application site, operate more than two vehicles there is nothing to suggest that any more than two taxis have been using the Pink Fusion Lounge car park at any one time when the restaurant is open to the public, in accordance with the temporary permission. The application indicates that the business has two drivers based in the New Mill area which use the Pink Fusion Lounge and information from Licensing suggests that other vehicles associated with New Mill Cars park at a separate registered site in Honley.

Cars parking at other locations, such as the former Midlothian garage site, public car parks or the public highway, cannot be controlled through the planning or licensing regimes. In terms of this application it is only possible to control how the private hire business operates from the site. A planning condition which sought to control where taxis park away from the site would not meet the relevant tests for planning conditions and would not be enforceable.

The concerns raised by the two objectors have been addressed through the above assessment. It is however worth commenting that the intensification in the use of the access beyond that which takes place with the existing restaurant at the site as a result of the development is considered to be modest and not significantly detrimental to highway safety.

One of the representations queried land ownership issues. In summary it was alleged that the application site included a small area of land adjacent to a neighbouring property that was not within the ownership of the applicant or the Pink Fusion Lounge. Land Registry documentation was provided to substantiate the allegation.

This issue has been resolved through the submission of a revised location plan with an amended red line. The change to the red line is very small and involves the removal of a narrow strip of land to the side and rear of the adjacent butcher's shop. The land to the side of the butcher's shop is immediately adjacent to one of the two points of access to the site but Officers are satisfied that the exclusion of this particular strip of land does not affect access into/out of the site because access can be achieved without having to encroach onto this area of hard surfacing. The strip of land to the rear of the butchers does not affect parking for the restaurant/taxi office.

**Other matters:**

Flood risk information has been submitted but as the proposal is for change of use of a first floor room and includes established car park it is not considered that there are any significant flood risk issues.

There are not considered to be any other matters that would materially affect the assessment of the application.

**Conclusion:**

There is no substantive evidence to suggest that the development has given rise to any significant detrimental impacts on highway safety and residential amenity during the 12 month trial period. As such, there are not considered to be any justifiable grounds to approve a further temporary permission and in the absence of any demonstrable harm having been caused Officers are of the opinion that a full permission is acceptable subject to the conditions referred to in the assessment.

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

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

**9. RECOMMENDATION****CONDITIONAL FULL PERMISSION**

1. The development hereby permitted shall be begun within three years of the date of this permission.
2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
3. No more than two licensed private hire vehicles or taxis in addition to a maximum of two vehicles for office based staff connected with the booking office shall park or wait in the car park at any one time during those hours when the restaurant is open to the public or between the hours of 22:30 to 08:00.
4. There shall be no picking up or depositing of passengers and no waiting by passengers at the taxi office.

This recommendation is based on the following plans and specifications schedule:-

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan	Drawing no. 1437.1A	-	18/3/16
Site Plan	Drawing no. 1437.2	-	10/2/16
Planning Statement	-	-	10/2/16



**Application No: 2015/91857**

**Type of application: 62 - FULL APPLICATION**

**Proposal: Erection of agricultural building**

**Location: Land Off, Lumb Lane, Almondbury, Huddersfield, HD4 6SZ**

**Grid Ref: 415590.0 413797.0**

**Ward: Almondbury Ward**

**Applicant: R Airey - C/O Agent**

**Agent: Michael Townsend, Townsend Planning Consultants**

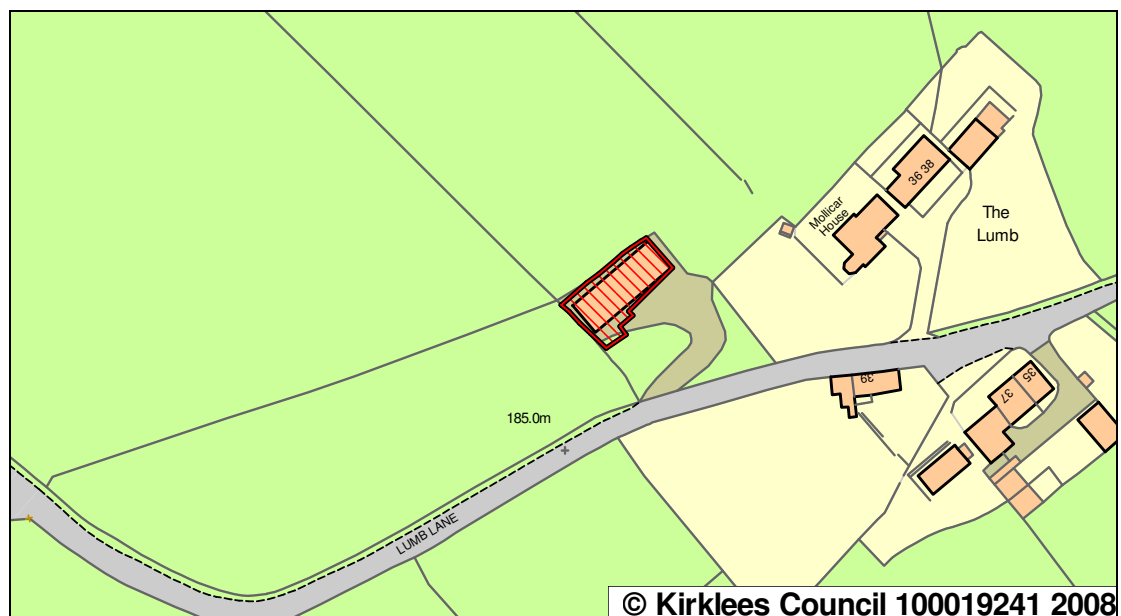
**Target Date: 08-Jan-2016**

**Recommendation: FC - CONDITIONAL FULL PERMISSION**

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

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

## **LOCATION PLAN**



**Map not to scale – for identification purposes only**

## **1. SUMMARY OF APPLICATION**

It is considered that subject to conditions, the development would comply with the aims of Green Belt policy and would not have an adverse impact on visual or residential amenity, on highway safety, the setting of listed buildings or on any environmental or ecological issues. It would support the aims of sustainable development. It is therefore recommended that conditional permission is granted.

## **RECOMMENDATION: CONDITIONAL FULL PERMISSION**

## **2. INFORMATION**

The application is brought to the sub-committee for determination following a request from Councillor Phil Scott which states:

Please submit this application for the Planning Committee for Huddersfield on the below reasons:

- Environmental (Road chippings that have been used to level the site release hydrocarbons into the ground, this causes the local vegetation to die).
- The fact that several permissions have been refused in the past.

The Chair of the Sub Committee has confirmed that Councillor Scott's reason for making this request is valid having regard to the Councillors' Protocol for Planning Committees.

## **3. PROPOSAL/SITE DESCRIPTION**

### *Site*

The land within the control of the applicant, including the application site, consists of a narrow rectangular block of land in a rural setting measuring approximately 130m by 50m extending in a southeast to northwest orientation. Access to the highway is taken at the south-east (bottom) end by means of a steep concrete driveway. The site has a steep upward gradient from the highway towards the northwest but an area near the lower end has been levelled and some ground excavated. A building has been erected on this area which is the subject of the current application, with the remainder of the levelled ground used for vehicular parking and turning.

The surroundings of the site are rural and undeveloped, with a small hamlet known as The Lumb situated a very short distance to the east. Two properties at The Lumb are Grade II listed. The site is around 0.4km to the south east of Castle Hill.

### *Proposal*

The proposal is a retrospective application for the erection of an agricultural building. It is roughly L-shaped and measures 23 by 13.5m, with a gentle monopitch roof with a maximum height of 4.2m. It is built of corrugated iron panels supported by a timber frame but it is proposed that it should be externally clad with timber. The land has been excavated substantially (by approximately 3m depth) to accommodate the building.

The application form states that the building works were completed on 11th January 2013.

A planning statement sets out the justification for the application. It states that the land holding amounts to approximately 16.89 hectares and this is used for mixed agricultural purposes including arable and sheep farming, also for the grazing of horses. It also claims that there are no other buildings on the holdings and that the building is required for the storage of agricultural machinery and equipment.

Additional information supplied gives further details about storage requirements – a tractor, hay feeder, hay rake, seed drill, grass cutter and bales of hay, and also confirms that all hay is produced on site, not imported. Furthermore it is stated that there are 20 ewes and 2 rams. Any land not used for sheep is grazing land or to produce haylage.

The land farmed by the applicant principally occupies land on the north side of Kaye Lane and west of Benomley Beck, which is just over 1.1km from the application site measured in a straight line or 2.1km by road. An additional statement says that there is a livestock field shelter on the rented land but this is not suitable for the purposes intended.

A Highways Statement and Heritage Statement have also been supplied.

## **4. BACKGROUND AND HISTORY**

2006/90022 – Agricultural notification for prior approval of detail for erection of detail for the erection of buildings for the storage of agricultural machinery and bales of straw and hay. Invalid.

2007/92699 – Agricultural notification – not granted. Reason: by reason of its size, siting, design and materials, the proposed building would have an adverse impact on the character and appearance of the landscape in this green belt location and also upon the setting of nearby listed buildings. The proposals are considered to be contrary to Unitary Development Plan Policy D8 and the advice in PPG15 (Planning and the Historic Environment), PPG2 (Green Belts) and PPS7 (Rural Areas).

2010/92962 – Agricultural notification – not granted. Reason: the proposal fails to satisfy the requirements of Class A of Part 6 of The Town and Country Planning (General Permitted Development) Order 1995 as the proposed

erection of the building would be carried out on a separate parcel of land to the main agricultural holding of less than 1 hectare in area.

COMP/09/0242 – Importation of waste materials to form hardsurfaced area. Closed – permitted development (agricultural permitted development rights)

COMP/14/0063 – Erection of unauthorised building. Retrospective planning application made.

## **5. PLANNING POLICY**

### **Kirklees Unitary Development Plan (UDP)**

The site is allocated for housing on the UDP Proposals Map.

- BE1 – Design principles
- BE2 – Quality of design
- T10 – Highway safety

### **National Planning Policy Framework (NPPF)**

- Section 3 Supporting a prosperous rural economy
- Section 7 Requiring good design
- Section 9 Protecting Green Belt land
- Section 11 Conserving and enhancing the natural environment.
- Section 12 Conserving and enhancing the historic environment.

## **6. CONSULTATION RESPONSES**

**KC Highways Development Management** - No objection.

**KC Environmental Services** – No objection provided it is not used for livestock.

**KC Planning Conservation & Design** – No objection

## **7. REPRESENTATIONS**

The application has been advertised by site notice, press advertisement and neighbour notification. The publicity period ended 06-Aug-2015.

8 representations received from local residents, all objecting. The planning related comments are as follows.

1. The application is retrospective and there have been unauthorised earth-moving operations (including land raising near boundary) with road planings brought on to the site;

2. The application is remote from other land within the holding and there is insufficient evidence of need;
3. The applicant is in fact a dealer and repairer of farm machinery, not a farmer. The land farmed is subject to a short tenancy.
4. Visual impact owing to inappropriate materials and elevated position, impact on Listed Buildings;
5. Access and highway network is unsafe and unsuitable for large vehicles;
6. Earth moving operations have harmed or killed trees and hedgerows
7. To further add to our concerns about the use of the building, neighbours have experienced noise nuisance from activities on the site where the building has appeared to be used as a workshop for working on vehicles. Given the raised ground levels and the close proximity to Mollicar House we are concerned about the impact of noisy activities carried out on the site. Without prejudice to our objection to the principle of a building in this location we consider that noise attenuation should be provided within the building and, if approved, a condition restricting working on vehicles or machinery outside the building.
8. The development has resulted in drainage problems to Lumb Lane especially so when water freezes in the winter;
9. A forklift bed attachment for a tractor is often left in the road unattended;
10. Light pollution;
11. Application has not been advertised;
12. Recent explosion and fire at the premises (cause unknown) raises safety concerns;
13. The site is too steep to be suitable for agriculture.
14. The statement refers to “agricultural activities on this site” when there are none or only very minimal.
15. Further safety issues caused by storage of hay on a site with steep gradients.

One representation from Ward Councillor Phil Scott – see “Information”

## **8. ASSESSMENT**

### **General Principle:**

The site is within the Green Belt on the UDP Proposals Map. As well as policies related directly to development in the Green Belt within the NPPF, the most relevant policies are:

Core planning principles:

Councils should proactively drive and support sustainable development, taking account of the different roles and characters of different areas, recognising the character and beauty of the countryside, reuse land that has been previously developed.

Support a prosperous rural economy

Support the sustainable growth and expansion of all types of businesses and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings, and promote the development and diversification of agricultural and other land-based rural businesses.

Conserving and enhancing the natural environment

Prevent development from contributing to unacceptable levels of soil, air, water or noise pollution or land instability.

Conserving and enhancing the historic environment

Harm to heritage assets should not be allowed without a proportionate justification

Within the UDP it will be assessed against Policies BE1, BE2 (development should respect visual and residential amenity, contribute to a sense of local identity, take into account the topography of the site, and incorporate existing or proposed landscaping features as part of the development) and T10 (development should not create or materially add to highway safety problems)

### **Green Belt:**

Under NPPF policy on Green Belts, agricultural buildings are appropriate development in principle. However under paragraph 88 of the NPPF it clarifies that local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, not just that caused by reason of inappropriateness. Where there is harm, then 'very special circumstances' to approve such development would not exist unless the harm was clearly outweighed by other considerations.

Evidence on file indicates that the site has been used as a base for agricultural activities for some years. The previous enforcement complaint 09/0242 was closed because planning officers accepted that Mr Airey (the present applicant) was a farmer for the purposes of the Town and Country Planning Act 1990 and that, at the time, the site benefited from agricultural permitted development rights. At present the site cannot benefit from

agricultural permitted development rights as it forms a separate parcel of land of less than 1 hectare; it is possible that this was not the case back in 2009 because the Mr Airey rented more land adjacent to the site.

The applicant farms nearly 17ha, according to the information supplied. Additional information supplied gives further details about storage requirements as set out in the “Proposal” section of the report above.

It is obviously good practice, from the point of view of efficiency and sustainability, for a farm storage building to be located on, or very close to, the land it would serve. This is usually the case for traditional farms. However, there is no basis in planning policy for refusing an application for a farm building just because the holdings are fragmented or that the building is remote from the main holdings. Indeed, there are other examples in Kirklees of farm enterprises being operated in this manner. Presumably, the reason that the applicant has not chosen to erect a building on the 13 hectares north of Kaye Lane is because this is the only land he owns.

It is understood that the applicant is, at present, a part-time farmer. This is corroborated by the information on the 2009 enforcement file in which a letter from the developer’s agent states that he farms rented land and also works for another farmer in addition to doing agricultural contracting work. This again does not mean that the agricultural need is invalid.

At the time of the case officer’s first site visit the building was used chiefly for the storage of agricultural machinery and hay. On a subsequent site visit, most of the building was used for machinery and plant storage, with the left-hand part currently unoccupied.

The left-hand part of the building is divided into compartments which look like stables but horses are not being kept there at the present time – the intention is to use the space, subject to planning permission being obtained, for hay storage or lambing.

It is considered on the basis of the information supplied, and on the planning history of the site, that the building is proportionate to the agricultural needs of the land farmed by the applicant.

It is considered that the building does not have a very significant impact on the Green Belt as, due to the regrading works, it is set into the natural topography of the land and has an almost flat roof. The unattractive materials at present have some negative impact on the character of the Green Belt but the replacement of the metal with timber boarding, which can be conditioned, means that any long-term negative impact can be avoided.

In summary it is considered that the development subject to appropriate conditions would comply with the aims of Green Belt policy.

## **Impact on amenity:**

### ***Visual amenity:***

The building in its present form is somewhat unsightly because of the steel sheeting used for the walls, but the applicant has proposed to re-clad the walls in timber. The applicant has also agreed that the roof can be replaced with alternative materials. At present it uses a mix of plain and coloured metal cladding. It has furthermore been substantially set into the natural slope of the land by regrading works, which reduces its visual impact and prominence.

It is considered that the scale, design and appearance of the building as proposed, with re-cladding, would not be untypical of agricultural buildings in the Huddersfield area and would harmonise with its surroundings, and the fact that it is substantially set into the natural slope of the land would make it less visually prominent.

When making decisions on planning applications for development that affects the setting of a listed building there is a duty for local planning authorities to have special regard to the desirability of preserving this setting. In this context preservation means not harming the interests of the building as opposed to keeping it unchanged. Furthermore Chapter 12 of the NPPF states that in determining applications local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets. Following consultation with the Conservation and Design Team, it is considered that it would not adversely affect the setting of any of the Listed Buildings at the Lumb, or that of Castle Hill. This is because of the separation between this site and these heritage assets and the topography and the scale of the development. Therefore this application is considered to be compliant with the objectives of paragraphs 131 & 132 of the NPPF.

In summary it is considered that the development would not be detrimental to visual amenity or the significance of heritage assets and would accord with the aims of BE1-2 and the National Planning Policy Framework – Conserving and enhancing the historic environment.

### ***Residential amenity:***

The site is located 30m from the nearest point within the curtilage of the nearest inhabited dwelling (Mollicar House). Environmental Services do not oppose the application provided that it is not used for livestock. It is considered that the agricultural use of the building would not give rise to significant adverse amenity impacts arising from noise, odours or other factors. Occasional noisy activities may occur, such as the repair of agricultural machinery, but it would appear, based on the recent history of the site, that there has been storage of agricultural machinery on this site at least since 2009, and no noise complaints have been made to Environmental Services. It is considered that it would be difficult to substantiate a refusal on this factor alone, and if such activities give rise to any significant noise nuisance, this can be dealt with under other legislation.



It is noted that the applicant does not intend to use the building principally for livestock, but would like to be able to use the left-hand part for lambing if possible. It should be conditioned that the building is not used for livestock, as based on Environmental Health comments this could give rise to noise and odours which would be detrimental to amenity. The applicant has agreed to accept a condition to this effect.

Subject to this condition it is considered that the use of the building would not give rise to loss of amenity and it would comply with the aims of EP4 and National Planning Policy Framework – Conserving and enhancing the natural environment.

### **Impact on ecology:**

The site is not within the bat alert layer and the field is considered to have low ecological value. It is considered that the development has no implications for biodiversity and that no conditions relating to biodiversity or ecology are required.

### **Highway safety:**

The existing access on to Lumb Lane is sub-standard in width and the steepness of its gradient. Sight lines onto Lumb Lane are poor in both directions.

According to one of the objectors' letters, the existing access was created in 2006. Kirklees aerial photographs lend some weight to this – the 2006 view shows an access track, which by 2009 seems to have been given some more permanent surfacing. However, the 2002 aerial photograph appears to show a means of access to the site (but not an access track) indicated by a break in the hedgerow and boundary wall. The formation and subsequent improvement of the access track would have required planning permission, which was not sought or obtained, but as this has been completed for more than 4 years it is now immune from enforcement action.

According to the Highways Statement, most vehicles using the site are either 4-by-4's or light vans and there are typically 3 or 4 trips per day. There is sufficient parking and manoeuvring space within the site (which is within the applicant's ownership) to allow all vehicles associated with the proposed use to enter the site and leave in forward gear. The wider highway network is acknowledged to be substandard. According to the Highways Report, there has however been only one reported injury accident on the stretch of Lumb Lane which incorporates the site access; this was in 2007, which was classed as slight. The report concludes that the local roads serving the site have an "excellent" safety record and that with the current use there is very little impact on the highway network.

The conclusions of the Highways Statement have not been disputed by Highways Development Management, who confirm that the Council acting as Highway Authority has not received any complaints relating to the highway impacts of the existing development.

Taking all the above factors into account it is considered that it would be difficult to justify a refusal on highway safety grounds as it would not be possible to demonstrate that the development has created or materially added to highway safety problems or will do so in the future.

### **Other issues:**

#### *Drainage:*

Drainage is proposed to be by soakaway, which is standard for agricultural buildings. It has been claimed in a number of objectors' letters that there has been an increase in water run-off to the highway, although there is no objective evidence for this and it is not clear whether this was caused by the building, or by the other works on the site such as the laying of hardstanding. Highways Development Management were notified of this concern during the course of the application but had no adverse comments to make as a result, and advised the case officer that water run-off on to the highway, if it causes problems, can be addressed under other legislation.

The proposal is not considered to raise further issues of planning significance.

### **Representations:**

Objections based on concerns about agricultural need, visual and residential amenity, and highway safety, have been addressed in the main part of the assessment but are highlighted below together with responses to other issues raised.

1. The application is retrospective and there have been unauthorised earth-moving operations (including land raising near boundary) with road planings brought on to the site;

**Response:** The retrospective nature of the application is not a material consideration. National planning policy has recently been changed to make intentional unauthorised development a material consideration, but this only applies to applications made 2<sup>nd</sup> September 2015 or later. This application was made in June 2015. Alleged unauthorised land-raising near the north-eastern boundary was the subject of an Enforcement case but the file was closed as it was deemed to be permitted development. This in any case does not form part of the current application – indeed, the building that is the subject of the current application would have involved excavation not land-raising.

2. The application is remote from other land within the holding and there is insufficient evidence of need;

**Response:** This issue has been addressed in the Assessment within 'Green Belt'. An agricultural building is typically located on or adjacent to the land that it serves, but an agricultural building being separate from the land farmed does not provide a basis for refusal

3. The applicant is in fact a dealer and repairer of farm machinery, not a farmer. The land farmed is subject to a short tenancy.

**Response:** The applicant is at present a part-time farmer. The land being subject to a shorthold tenancy does not invalidate the agricultural need, and in fact it may go some way towards explaining why the applicant has chosen to site the building here rather than on the lands north of Kaye Lane.

4. Visual impact owing to inappropriate materials and elevated position, impact on Listed Buildings;

**Response:** These issues have been addressed in the main part of the Assessment above.

5. Access and highway network is unsafe and unsuitable for large vehicles;

**Response:** This issue has been addressed in the main part of the Assessment above.

6. Earth moving operations have harmed or killed trees and hedgerows

**Response:** None of the trees on or adjacent to the site are currently the subject of a Tree Preservation Order. Most countryside hedgerows are protected from being uprooted or destroyed by the Hedgerows Regulations 1997 and a written notice from the Local Planning Authority is required in order to remove, but again this is not considered to be material to the development now under consideration.

7. To further add to our concerns about the use of the building, neighbours have experienced noise nuisance from activities on the site where the building has appeared to be used as a workshop for working on vehicles. Given the raised ground levels and the close proximity to Mollicar House we are concerned about the impact of noisy activities carried out on the site. Without prejudice to our objection to the principle of a building in this location we consider that noise attenuation should be provided within the building and, if approved, a condition restricting working on vehicles or machinery outside the building.

**Response:** Repair and servicing of vehicles and machinery is inevitably required from time to time as part of a farming enterprise. Given the lack of adverse comments from Environmental Services it is considered it would be impossible to substantiate a reason for refusal, or require noise attenuation works, based on this alone.

8. The development has resulted in drainage problems to Lumb Lane especially so when water freezes in the winter;

**Response:** This may pose a risk to highway safety but it would be an issue that would have to be dealt with by enforcement under the Highways Act, not within the remit of the planning system.

9. A forklift bed attachment for a tractor is often left in the road unattended;

**Response:** This is an understandable concern but it is considered to be outside the remit of the planning system. It is possible that it could be dealt with under highway legislation if it recurs.

10. Light pollution;

**Response:** At the time of the case officer's site visit there was no external lighting on the building or visible within the site, nor is any shown on the drawings. It can be conditioned as a precaution that no artificial lighting is added.

11. Application has not been advertised.

**Response:** A site notice was posted in the vicinity of the site and neighbour notification letters sent to a number of nearby dwellings. Furthermore a press notice was placed in the Huddersfield Examiner on July 10<sup>th</sup> 2015 thereby fulfilling national and local publicity requirements.

12. Recent explosion and fire at the premises (cause unknown) raises safety concerns.

**Response:** It is considered that this is not a material planning issue. Any safety issues concerning storage of materials would be covered by other legislation.

13. There are only very minimal agricultural activities (at most) on the site which is too steep to be suitable for agriculture.

**Response:** It is noted that the site is very steep but as most of the land farmed by the applicant is some distance away from the application site this is considered to be of little relevance.

14. Further safety issues caused by storage of hay on a site with steep gradients.

**Response:** The applicant or any future occupant has a duty of care to ensure that hay or other materials are stored and moved around the site safely. The steep gradient of the site makes this an understandable concern but it is considered that this in itself would not amount to a defensible reason for refusal.

15. Road chippings that have been used to level the site release hydrocarbons into the ground, this causes the local vegetation to die.

**Response:** Planning permission would not have been required for the importation of road planings to level or raise the site (see officer's response to point 1), but it would have probably have required either a permit or an exemption. The Environment Agency have been notified of this recently during the course of this application and are looking into the question of whether these were obtained. It is considered however that this is not material to the current application.

16. The fact that several permissions have been refused in the past.

**Response:** All three of the applications referred to here are for agricultural notification under Class A of Part 6 of The Town and Country Planning (General Permitted Development) Order 1995, not applications for planning permission.

The first, 2006/90022, was declared invalid because of insufficient evidence of agricultural operations being undertaken.

For the second application, 2007/92699, evidence of agricultural need was submitted and accepted by officers, but officers considered that by reason of its size, siting, design and materials, the proposed building would have had an adverse impact on the character and appearance of the landscape in this green belt location and also upon the setting of nearby listed buildings. The building was to have been built mainly in timber and with an open frontage, but would have been sited near to the south-western boundary of the field with a north-west to south-east orientation, at 90 degrees to the current building.

The most recent one, 2010/92962, was accompanied by a landscape character assessment and it would have had a similar scale, siting and orientation to the present building, but with a double pitched roof. However, approval was not granted as the proposed erection of the building would be carried out on a separate parcel of land to the main agricultural holding of less than 1 hectare in area meaning it would not benefit from permitted development rights.

Returning to the current proposal, it should be noted that this is a full application for planning permission and that it must be assessed on its planning merits alone.

### **Conclusion:**

It is considered that subject to conditions on the replacement of materials and on the future use of the building, it would comply with the aims of Green Belt policy and would not have an adverse impact on visual or residential amenity, heritage assets or on any environmental or ecological issues. It would support the aims of sustainable development. It is therefore recommended that conditional permission is granted.

## **9. RECOMMENDATION**

### **CONDITIONAL FULL PERMISSION**

#### **Conditions**

1. The development hereby permitted shall be carried out in complete accordance with the plans and specifications listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
2. The profiled metal cladding to the exterior walls of the building shall be replaced with timber in accordance with the details shown on the approved plan 1488/001 within six months of the date of this permission and thereafter retained as such.
3. The existing metal sheeting to the roof shall be replaced by metal sheeting with a factory-applied colour finish in Juniper Green (RAL 160 20 10/ BS: 12B29) within six months of the date of this permission and shall be thereafter retained as such.
4. The building that is the subject of this permission is approved for agricultural purposes only and at no time shall be used for purposes that do not fall within the definition of agriculture set out in Section 336 of the Town and Country Planning Act 1990 (or any definition which may supersede this in any subsequent Act or Order).
5. No part of the building shall be used for accommodating or sheltering livestock.

This recommendation is based on the following plans and specifications schedule:

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location plan			23-June-2015
Block plan	1488-005		23-June-2015
Plan showing land holdings			20-Aug-2015
Plans and elevations	1488/001		23-June-2015
Planning statement			23-June-2015
Highways statement			23-June-2015
Heritage statement			23-June-2015
Supporting information: land			11-Nov-2015
Supporting information: agricultural activities			10-Dec-2015

**Application No: 2016/90576**

**Type of application: 62HH - FULL APPLICATION**

**Proposal: Formation of a porch to front**

**Location: 3, Digley Cottages, Bank Top Lane, Holmbridge, Holmfirth, HD9 2QD**

**Grid Ref: 411150.0 407059.0**

**Ward: Holme Valley South Ward**

**Applicant: P Brown**

**Agent: John Barnes - Architect**

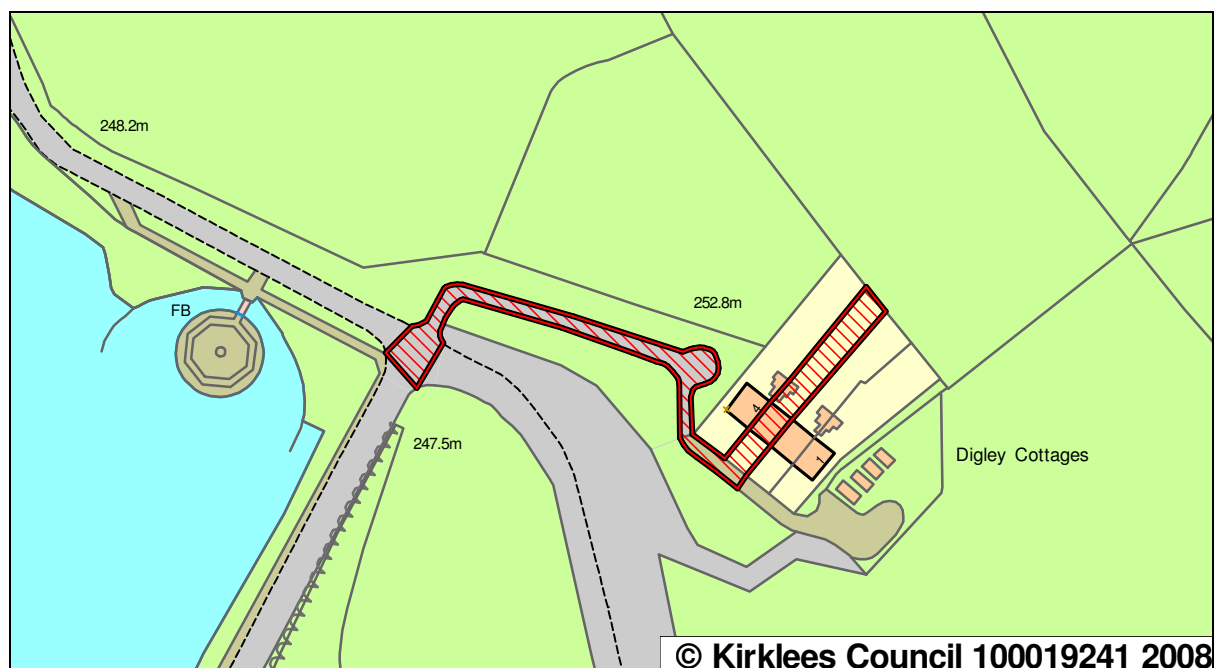
**Target Date: 20-Apr-2016**

**Recommendation: FC - CONDITIONAL FULL PERMISSION**

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

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

## **LOCATION PLAN**



**Map not to scale – for identification purposes only**

## **1. SUMMARY OF APPLICATION**

The proposal is for the erection of a porch forming a front extension to the existing dwelling. The property is located within the allocated Green Belt on the Kirklees Unitary Development Plan proposals map.

Whilst in the Green Belt the proposed development is considered not harm the openness of the Green Belt or form a disproportionate extension to the original dwelling. The principle of development is therefore considered to be acceptable.

The porch extension is considered not to adversely affect the visual amenity of the host property, wider terrace of properties or be intrusive from the Peak District National Park or towards the National Park. Furthermore, the proposal is considered not to have a materially harmful impact upon the residential amenity of adjoining properties.

**Recommendation: Conditional Full Permission**

## **2. INFORMATION**

The application is brought to Sub-Committee at the request of Councillor Donald Firth for the following reason:

“Visual impact on the green belt, overlooking Digley Reservoir, and it is also on the northern boundary of the Peak District National Park”

The Chair of Sub-Committee has confirmed that Cllr Firth’s reason for making this request is valid having regard to the Councillors’ Protocol for Planning Committees.

## **3. PROPOSAL/ SITE DESCRIPTION**

### **Site Description**

No 3 Digley Cottage is two storey mid-terraced property built in the 1950s. The dwelling is part of a terrace of four stone cottages, in an isolated Green Belt location elevated above Bank Top Lane to the north east of Digley reservoir. The Peak District National Park lies to the south west of the site following the boundary of Fieldhead Lane and Digley Royd Lane.

Each property in the terrace has a front porch arranged in two adjoining pairs along the southwestern elevation. There are no other extensions to the front of the properties. These porches project 1.2 metres from the front elevation and have a width of 4.4 metres. They have lean-to roofs at a maximum height of 3.3 metres and eaves of 2.1 metres. They are each designed with a door and window opening on the front elevation and a small side window arrangement.



The application property is set within a gently sloping site and hosts gardens to the front and rear.

The dwelling is accessed via a private drive serving the terrace off Bank Top Lane to the front of the property.

### **Proposal**

The application seeks permission for the erection of a porch forming an extension to the front elevation of the dwelling.

The extension would project approximately 1.2 metres from the front elevation with an external width of approximately 3 metres. It would have a lean to roof with a maximum height of approximately 3.4 metres and eaves of 2.4 metres. The roof would incorporate two rooflights and there would be a French door with side lights within the front elevation. This extension would be detached from the existing porch structure.

The materials are proposed to be new coursed stone and slate tiles with grey UPVC door and window openings to match the existing dwelling.

## **4. BACKGROUND AND HISTORY**

There is no previous planning history for this site.

## **5. PLANNING POLICY**

### **Kirklees Unitary Development Plan**

D11 – Extensions to buildings in the Green Belt

BE1 – Design principles

BE2 – Quality of design

BE13 – Extensions to dwellings (design principles)

BE14 – Extensions to dwellings (scale)

NE8A – Development within the Peak District National Park

### **National Planning Policy Framework**

Chapter 7 – Requiring good design

Chapter 9 – Green Belt

## **6. CONSULTATIONS**

None Required

## **7. REPRESENTATIONS**

The application was initially publicised by site notice and neighbour notification letter, which ended 29<sup>th</sup> March. As a result of site publicity, four letters of objection were received from three objectors. The planning concerns raised can be summarised as follows:

- The property and will destroy the pleasant line of the four properties that constitute Digley Cottages.
- An alteration to the front of the cottages would be intrusive, inappropriate and unsympathetic to the appearance and character of the cottages and local surroundings.
- The construction of the proposed bay window would destroy the building line of these 60+ year old cottages and the roof line of such an extension would not be in line with the roof line of the existing porches.
- The symmetry of the terrace has always been one of its attractions and, whilst the recently fitted French windows in the property in question have had some effect on that symmetry, the proposed extension would destroy the symmetry completely.
- Inaccurate description of development- A bay window has windows to the front and both ends. This proposed bay window is to be built in solid walls and has roof lights. This implies it is an extension.
- The proposed extension will impact the existing drainage infrastructure.
- Until January of this year No 3 matched all the other houses in the row of four cottages. The timing of the start of the works begun before planning permission was applied for. The timing of the application could have been in order to lessen the impact of the application.

Non- material objections raised are as followed below:

- The deeds state that nothing should be permitted or done to the property that will grow to be an annoyance to the authority or its successors in title or the owners or occupiers of the adjoining land/ premises. The proposed development will certainly cause annoyance, due to some loss of our precious view and would lead to lessening and depreciation of the value of all the other cottages.
- People building on land surrounding reservoirs must gain permission from Yorkshire Water. The rows of cottages are completely surrounded by Yorkshire Water land and they also own the driveway up to and in front of the properties.

For Members information the original description was changed from 'Formation of a bay window to front' to 'Formation of porch to front' during the course of the application. Neighbours were notified for a further 20 days. The final publicity date was the 13<sup>th</sup> April.

Holme Valley Parish Council - Object to the application on the grounds that this is much more than a 'bay window'. Not of a small nature and more of an extension. Not in keeping. Potential loss of light to adjacent properties and very visible building. Reservoir adjacent is Listed so proposed bay window is within setting and due consideration must be given to that.

## **8. ASSESSMENT**

### **General Principle:**

The site is allocated Green Belt on the Unitary Development Plan. The NPPF sets out that new buildings in the green belt are inappropriate unless, amongst other things, they relate to the extension of an existing building and that this does not result in a disproportionate addition to the original building. Policy D11 of the UDP also seeks to ensure that in cases of extensions in the green belt, the original building should remain the dominant element.

Inappropriate development is, by definition, harmful to the Green Belt and should not be approved unless very special circumstances are demonstrated which clearly outweigh the harm to the Green Belt by reason of inappropriateness and any other harm. (NPPF Chapter 9 paragraphs 87 and 88).

Other Unitary Development Plan Policies of relevance include BE1 and BE2 relating to general design principles and Policies BE13 and BE14 of the UDP which relate specifically to householder extensions. As the site is proximate to the Peak District National Park Policy NE8A is also to be considered in the assessment of the application.

### **Impact on the Green Belt:**

The proposed development would increase building's footprint by approximately 3.7 square metres. This is a small extension to the building which would not be disproportionate to its original size. The extension does not project further forward than the existing porch and, in general, follows the design of this structure. Whilst the application would have a slight impact on the openness of the Green Belt it is considered this would be modest and would not outweigh the fact that the development is 'appropriate' in the Green Belt.

The proposed development is not considered, by officers, to materially harm the openness or character of the Green Belt. The development in these circumstances would accord with Policy D11 of the UDP and Chapter 9 of the NPPF.

### **Impact on Visual Amenity:**

Policy BE14 of the UDP states that front extensions should be 'relatively small in scale'. Policy BE13 states that extensions should respect the design features of the existing house and adjacent building. More general design Policies BE1 and BE2 state that development should be of good quality design which is, amongst other things, visually attractive and in keeping with surrounding development. Advice in the NPPF states that a core planning principle is to always seek to secure high quality design.

The cottages are in a prominent position, elevated above Digley Reservoir and particularly noticeable from Digley Royd Lane and Fieldhead Lane. The existing cottages were built as a terrace of four and display a strong symmetry through their original design and through the placement of porches on the front elevations. The proposed extension, on the front elevation, would have some effect on this symmetry and would alter the outlook of the cottages. However it would be small in scale and has been designed as a structure detached from existing porches but following their design. Although it is around 150mm higher than these porches this would be imperceptible from a distance and the use of matching materials, stone and slate, would help to harmonise with the row. It is considered that the overall symmetry of the terrace would not be damaged by the development.

The windows and door openings to Nos 4 and 3 Dingley Cottage have previously been altered under permitted development. No. 4 has rosewood windows and doors and no. 3 grey. The remaining properties have white framed windows and doors. Therefore visually the frontage has already been altered from its original form. Taking this into account, and the permitted development rights the properties enjoy, the proposed grey UPVC windows and doors are considered acceptable. Indeed the use of a grey frame to the large French doors on the front elevation would help to minimise the impact of the structure. Overall in terms of design and materials, the proposal is considered sympathetic to the host building and surrounding properties.

Taking into consideration the application dwelling is in close proximity to the boundary of the nearby Peak District National Park Policy NE8A states that development which would be intrusive in views within the Park or have a harmful impact on views into the Park will not be permitted. Although the cottages are visible from the National Park it is considered that, given the existing built form and the scale and design of the development proposed, it would not be intrusive or have a detrimental impact on the character or views of the National Park. This also takes into account with Digley Reservoir itself. The reservoir is not listed but is an attractive structure within the Peak Park.

In conclusion it is considered the proposal is acceptable and compliant with the requirements of policies BE1, BE2, BE13, BE14 and NE8A of the Unitary Development Plan and the core planning principles of the NPPF.

### **Impact on Residential Amenity:**

The adjoining property No 2 Digley Cottage would be affected by this proposal. The proposal would result in the occupiers of this property having an extension on either side of a lounge window; the proposed porch and the existing adjoining porch to their own property. These both project 1.2m. The proposed extension would be set in approximately 0.3 metre away from the party boundary rather than flush. This, taken together with the limited projection and scale of the development, is considered to mitigate any overbearing impact the proposal would have on the amenity of occupiers of no. 3. The porch may result in some loss of light and outlook, however once again considering the scale of the development and the separation distance

between the proposal and the neighbouring property, the impact is considered not to be undue. The affected window would still enjoy an open aspect to the south west.

In assessing the application it has been acknowledged that most planning approvals are likely to interfere to some extent, with an adjoining occupier's enjoyment of their property. However, the test is whether this is proportionate balancing the rights of the developer to develop and the rights of those affected by the development. In this instance it is considered that undertaking this balancing exercise the impact of the development would be acceptable.

No other properties would be materially affected by the development.

The proposal is deemed to comply with Policies BE14 and D2 in regards to residential amenity.

### **Other matters:**

### **Representations**

4 letters of representations were received and the matters contained within the representations have not been addressed in the report, they are responded to below:

- The property and will destroy the pleasant line of the four properties that constitute Digley Cottages.  
Response: The impact of visual amenity has been addressed in the report.
- An alteration to the front of the cottages would be intrusive, inappropriate and unsympathetic to the appearance and character of the cottages and local surroundings.  
Response: The impact of visual amenity has been addressed in the report.
- The construction of the proposed bay window would destroy the building line of these 60+ year old cottages and the roof line of such an extension would not be in line with the roof line of the existing porches.  
Response: The proposed porch is to be 0.1 metres higher than the existing porches. This is still considered to be small in scale and the host property would remain the dominant element.
- The symmetry of the terrace has always been one of its attractions and, whilst the recently fitted French windows in the property in question have had some effect on that symmetry, the proposed extension would destroy the symmetry completely.  
Response: The impact of visual amenity has been addressed in the report.
- Inaccurate description of development- A bay window has windows to the front and both ends. This proposed bay window is to be built in solid walls and has roof lights. This implies it is an extension.  
Response: The description has been changed from 'Formation of a bay window' to 'Formation of a porch'.

- The proposed extension will impact the existing drainage system.  
Response: The impact on existing drainage infrastructure would be considered under any allied application for Building Regulations approval.
- Until January of this year No 3 matched all the other houses in the row of four cottages. The timing of the start of the works begun before planning permission was applied for. The timing of the application could have been in order to lessen the impact of the application.  
Response: Any changes/ alterations to the windows that have taken place can be undertaken using 'permitted development rights'.
- The deeds state that nothing should be permitted or done to the property that will grow to be an annoyance to the authority or its successors in title or the owners or occupiers of the adjoining land/ premises. The proposed development will certainly cause annoyance, due to some loss of our precious view and would lead to lessening and depreciation of the value of all the other cottages.  
Response: Any restrictions set out in deeds are not a matter the Local Planning Authority can be involved in.
- People building on land surrounding reservoirs must gain permission from Yorkshire Water. The rows of cottages are completely surrounded by Yorkshire Water land and they also own the driveway up to and in front of the properties.  
Response: Not a material planning consideration. If the owner/developer requires further consent from Yorkshire Water this would need to be obtained in addition to planning permission.

### **Conclusion:**

The National Planning Policy Framework introduced a presumption in favour of sustainable development. The policies set out in the framework taken as a whole constitute the Government's view of what sustainable development means in practice.

Having regard to the pattern of existing development in the area and the relevant provisions of the development plan and the National Planning Policy Framework, subject to the conditions, the proposed scheme would be in accordance with the development plan as it is a sustainable development; the proposal is therefore recommended for approval.

## **9. RECOMMENDATION**

### **CONDITIONAL FULL PERMISSION**

1. The development hereby permitted shall be begun within three years of the date of this permission.
2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
3. The external walls and roofing materials of the extension hereby approved shall in all respects match those used in the construction of the existing building.

This recommendation is based on the following plans and specifications schedule:-

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Plans- Location Plan	-	-	24/02/2016
Plans- Proposed Site/ Block Plan	SP01	-	18/02/2016
Plans- Grouped Plans and Elevations	04	-	18/02/2016