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**Report of the Head of Development Management**

**HEAVY WOOLLEN PLANNING SUB-COMMITTEE**

**Date: 18-May-2017**

**Subject: Planning Application 2016/93496 Erection of 6 industrial starter units adj, California Inn, Oxford Road, Gomersal, Cleckheaton, BD19 4HQ**

**APPLICANT**

J Oates

**DATE VALID**

25-Oct-2016

**TARGET DATE**

20-Dec-2016

**EXTENSION EXPIRY DATE**

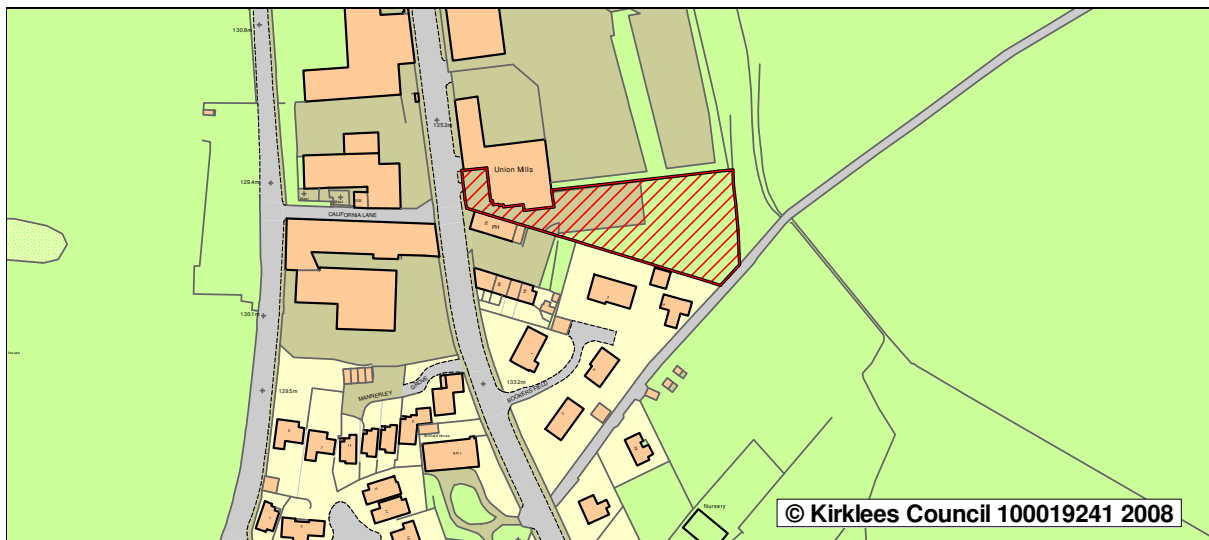
22-May-2017

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

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

**LOCATION PLAN**



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

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**Electoral Wards Affected: Liversedge and Gomersal**

Yes

Ward Members consulted  
(referred to in report):

- Cllr Lisa Holmes

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**RECOMMENDATION:**

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

**1.0 INTRODUCTION:**

- 1.1 The planning application is brought to the Heavy Woollen Planning Sub-Committee because of the significant number of representation that has been received. This is in accordance with the Council's scheme of delegation.
- 1.2 This proposal would see the erection of six industrial starter units on a vacant plot within an area that is characterised by commercial uses to the north and west. It is considered by officers that the development would be satisfactorily designed and, subject to the inclusion of relevant planning conditions, would not have any significant adverse impact on local amenity, the local environment, or highway safety.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site is located adjacent to California Inn, Oxford Road, Gomersal. It currently comprises of an area of vacant, un-kept land which is accessed via an existing access located between Union Mills and California Inn. The land gradually slopes upwards from west to east.
- 2.2 To the north of the site is Union Mills, to the east are open fields (which are allocated Green Belt on the Kirklees UDP proposals map), to the south are residential properties located off Brookers Field, and to the west is California Inn.
- 2.3 Public footpath SPE/59/20 is located the south of the application site.

### **3.0 PROPOSAL:**

- 3.1 The proposal is for the erection of 6 industrial starter units.
- 3.2 The units would be all be attached and form one linear building measuring 56m in length by 12m in depth. Units 1 to 5 would each have a floor area of 106 sq m, with unit 6 being larger, at 140 sq m. Due to the topography of the land, the units, although all the same height (7.0m), would have a 'stepped' finished floor level, with units 5 and 6, being located at the highest finished floor level.
- 3.3 The materials proposed comprise of Marshall Cromwell Pitched Faced Weathered and Goosewing Grey composite cladding for the walls, and Goosewing Grey composite cladding for the roof.
- 3.4 The access would be taken from the existing access, located to the north of California Inn. Twenty parking spaces would be provided within the site, along with a cycle parking area and bin store.
- 3.5 Palisade fencing would be erected around the perimeter of the site, set in by 1.0m from southern boundary of the application site in order to allow for continued pedestrian access along the route of footpath (SPE/59/20) which has been obstructed.

### **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 None of the application site however, there is some planning history relevant to the determination of this application at the neighbouring Union Mills site as follows:

2014/92447 – Certificate of lawfulness for proposed use of site to operate 24 hours a day, 7 days a week – Certificate Granted

### **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 During the course of the application, an amended plan was sought setting in the security fencing from the boundary of the site in order to allow continued pedestrian access. This amended plan was received on 12 April 2017.
- 5.2 A Coal Mining Risk Assessment was submitted during the course of the application following comments received from the Coal Authority.
- 5.3 A Transport Statement was requested during the course of the application. This was received on 1 March 2017. However, further information was required, which resulted in the submission of an addendum to the original report, received on 8 May 2017.

## 6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory development plan comprises the Kirklees Unitary Development Plan (saved Policies 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 Council is currently in the process of reviewing its development plan through the production of a Local Plan. The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

The site is unallocated on the Kirklees Unitary Development Plan proposals map.

### Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 **D2** – Unallocated Land  
**BE1** – Design principles  
**BE2** – Quality of design  
**EP4** – Noise sensitive development  
**R13** – Public Right of Way and Access Areas  
**T10** – Highway safety  
**T19** – Parking standards  
**G6** – Land contamination  
**B1** – Employment needs of the district

### Supplementary Planning Guidance / Documents:

- 6.3 None relevant to the determination of this application.

### National Planning Guidance:

- 6.4 **Chapter 1** – Building a strong, competitive economy  
**Chapter 7** – Requiring good design  
**Chapter 8** – Promoting healthy communities  
**Chapter 10** – Meeting the challenge of climate change, flooding and coastal change  
**Chapter 11** – Conserving and enhancing the historic environment

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

7.1 As a result of the publicity, 28 individual representations have been received. A summary of the main concerns raised are as follows:-

- Doesn't appear to be sufficient parking for 6 industrial started units.
- No information relation to the expected use of the units and the possibility of 24 hrs operation.
- Impact on value of property.
- A public footpath is shown running on the inside of the boundary of neighbouring dwellings.
- The site notice was only erected allowing 9 days to object.
- The brownfield land would be better used for housing development.
- Suggest that local businesses object and are duly concerned about the validity of continuing to trade in the area, due to issues of parking which looks to be exacerbated if the plan goes ahead.
- The suggestion that only 6 full-time jobs will be created is ridiculous – the figure has been given in an attempt to reduce the assessment of environmental impact through vehicular movement.
- For short periods of time throughout the day, loading and unloading of a nearby business premise will block the access road – the proposal would affect the viability operations and deter future investment in machinery and local jobs for the existing business.
- There is serious traffic congestion, particularly as wagons for the local industrial premises park alongside both sides of the street, causing obstruction. There is insufficient capacity for more wagons.
- Para. 6.7.2 of “Manual for Streets” sets out that the kerb to kerb width of the road should be at least 3.7m – in this case, it is just 4.1m – this has safety implications for pedestrians and cyclists wishing to access their place of work.
- If planning permission is approved, double yellow lines must be painted along both sides of Oxford Road.
- The landowner has cut down a number of trees – even though the application form states that there are “no trees”. The site was cleared before the application was submitted, with no regard to wildlife or wildlife habitat.
- Challenge the validity of the application because a transport statement or assessment should be included (para. 32 of the NPPF).

- Challenge the validity of the application because the applicant has failed to provide a Design & Access Statement, and there are no details of the location of the 20 parking spaces or provision for delivery vehicles.
- The applicant has not carried out consultation or engaged with the local community, contrary to para. 66 of the NPPF.
- Attention is drawn to policy T2 of the UDP, in which the council commits to improving accessibility, the highway network, road safety and environmental conditions. Reference also made to policy T10 of the UDP.
- If the development goes ahead, will it be subject to a payment of a Community Infrastructure Levy?

7.2 In addition to the above, a petition with 64 signatures has been received stating “*we, the undersigned, formally object the planning application above*”.

7.3 Ward Councillor Lisa Holmes has also been in contact above the application and asked to be kept updated during the course of the application.

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

**K.C. Highways Development Management** – The number of parking spaces proposed is broadly in line with adopted standards set out in the UDP; the layout of the proposed internal parking area is considered acceptable. Vehicular access to the site is proposed via an existing access that currently serves the neighbouring businesses at Union Mills. The internal carriageway leading from the public highway into the application site is currently used for loading/unloading with businesses associated with Union Mills.

Updated HDM comments 26/04/2107

In light of the above comments, a Transport Statement (Paragon Highways March 2017) and a subsequent addendum (additional information) have been submitted in support of the application. This information sufficiently addresses a number of concerns and points of clarification with regards to trip rates and accident data statistics.

HDM is satisfied that the proposal is acceptable with regards to access by a range of vehicle sizes and that they can serve the development and improve turning facilities for the existing Union Mills in a safe and efficient manner within the site.

However in addition a condition will be required to provide signage and ‘Keep Clear’ markings within the internal access arrangement.

As such, the proposal is considered acceptable in terms of traffic impact upon the safety and efficiency of the local highway network.

**Coal Authority** – Originally objected because a Coal Mining Risk Assessment had not been submitted. However, following receipt of a Coal Mining Risk Assessment report, the Coal Authority has confirmed that they withdraw their objection subject to the imposition of conditions securing:-

- \* The submission of a scheme of intrusive site investigations for approval;
- \* The undertaking of that scheme of intrusive site investigations;
- \* The submission of a report of findings arising from the intrusive site investigations;
- \* The submission of a scheme of remedial works for approval; and
- \* Implementation of those remedial works.

**Health & Safety Executive** – Awaiting final comments which shall be reported to members in the update.

## 8.2 **Non-statutory:**

**K.C. Environmental Services** – Conditions relating to noise, contaminated land, and air quality are recommended. A footnote relating to construction site noise is also suggested.

**K.C. Public Right of Way** – Objected to the position of the security fence. Amended plans were submitted by the applicant to address this concern and further consultation has been carried out with the PROW officer. No further comments have been provided at the time of writing this report.

## 9.0 **MAIN ISSUES**

- Principle of development
- Impact on visual amenity
- Impact on residential amenity
- Environmental issues
- Highway issues
- Representations
- Other matters

## 10.0 **APPRAISAL**

### Principle of development

- 10.1 The site has no specific allocation in the UDP. Policy D2 of the UDP states “planning permission for the development ... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]”. All these considerations are addressed later in this assessment. Subject to these not being prejudiced, this aspect of the proposal would be acceptable in principle in relation to policy D2.

- 10.2 The NPPF makes it clear that the Government is committed to securing economic growth through the planning process and to help achieve this paragraph 20 of the NPPF states:

*“ . . . local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21<sup>st</sup> century”.*

- 10.3 As this proposal would positively contribute towards the local economy in terms of jobs and investment, it is therefore considered by officers that subject to this proposal not compromising the key sustainable principles set out in the NPPF this proposal is acceptable in principle.

#### Impact on visual amenity

- 10.4 UDP Policies BE1 and BE2 are considerations in relation to design, materials and layout. Section 7 of the NPPF indicates that good design is a key aspect of sustainable development and that poorly designed development should be refused.
- 10.5 The area surrounding the application site comprises of a mix of residential (to the south) and commercial to the north and west. The commercial premises include traditional stone-built premises (Union Mills) and other, more modern rendered style buildings with composite cladding on the opposite side of Oxford Road.
- 10.6 In this instance, the design of the buildings, along with the materials proposed, are considered appropriate when taking into account the surrounding context and are fairly typical of this type of development. The scale of the buildings would be similar to others in the immediate vicinity and officers therefore consider that this development would not be out of keeping within the wider setting. It is therefore considered that this proposal would not detrimentally affect visual amenity and would therefore accord with policies D2, BE1, and BE2 of the UDP and the aims of chapter 7 of the NPPF.

#### Impact on residential amenity

- 10.7 Whilst this proposal is located within an existing commercial setting there are a number of residential properties to the south of the site. The noise climate in this area is already relatively high due to the busy Oxford Road and existing commercial activity. However, this proposal could add to the local noise climate and the cumulative effect may therefore have an impact. Consequently it is proposed to include a planning condition which would require the applicant to provide details of how sensitive properties in the vicinity of the site would be protected from excessive noise levels. This is considered to comply with the aims of policy EP4 of the UDP and chapter 11 of the NPPF.

- 10.8 With regard to the scale of the development, the units would be located along the northern boundary of the site, and therefore some 20m from the nearest dwelling at no.3 Brookers Field. As a result, officers are therefore of the opinion that there would be no overbearing impact upon the amenity of these existing occupants as a result of the new buildings. The application form does not provide details of the hours of use but Officers considered it fair and reasonable in order to balance the interest of residential amenity with the operational flexibility of the development to restrict the hours of use of the development to not before 7am and not after 10pm.
- 10.9 In all, subject to the inclusion of appropriate conditions, the proposals are not considered to result in a significant adverse impact upon residential amenity and would accord with the aims of policies D2 and EP4 of the UDP as well as chapter 11 of the NPPF.

#### Environmental issues

- 10.10 The site has been identified as being potentially contaminated due to its previous use as a Mill and underground petrol store. As a result, Environmental Services have recommended conditions relating to the submission of Phase 1 and 2 reports, a Remediation Strategy, the implementation of a Remediation Strategy, and the submission of a Validation Report. With the inclusion of such conditions, the proposal is considered to comply with the aims of policy G6 of the UDP and chapter 11 of the NPPF.
- 10.11 The proposal is adjacent to an Air Quality Management Area where significant efforts have been made in recent years to improve air quality. It is therefore important to ensure that this proposal does not have a significant detrimental effect on air quality in the vicinity and that any impact is satisfactorily mitigated. Should planning permission be granted, and in order to accord with chapter 11 of the NPPF, it is proposed to include a planning condition which would require the provision of low emission vehicle charging points.

#### Highway issues

- 10.12 The six industrial units total some 988 sq m. In line with the adopted parking standards as prescribed within the UDP, the development should be provided with parking at a ratio of 1 space per 40-50 sq m. This would equate to 20-25 parking spaces. In this instance, 20 parking spaces would be provided within the site which is considered to be broadly in line with adopted standards and is considered acceptable.
- 10.13 The layout of the proposed internal parking area is also considered to be acceptable with all spaces being able to be accessed in a safe and efficient manner.

- 10.14 Vehicular access to the site is proposed via an existing access that currently serves an existing vehicular access for neighbouring business and light industrial uses at Union Mills. The internal carriageway leading from the public highway (Oxford Road) into the application site is currently used for loading/unloading for businesses associated with Union Mills.
- 10.15 During the course of the application a Transport Statement and addendum was submitted which addressed initial concerns and provided points of clarification with regard to trip rates and accident data statistics.
- 10.16 In light of the above, officers are satisfied that the proposal is acceptable with regards to access by a range of vehicle sizes and that they can serve the development in a safe and efficient manner within the site. The proposal is also acceptable in terms of traffic impact upon the safety and efficiency of the local highway network.
- 10.17 With regard to the Public Right of Way (SPE/59/20), which is located along the southern boundary, concern was initially raised by the Council's Public Right of Way (PROW) officer that the provision of palisade fencing along the red line boundary of the site would further obstruct the (already obstructed) footpath. In light of this concern, the applicant has amended the scheme and proposes to set the new palisade fencing in by 1.0m from the southern boundary of the site. This would ensure that access could still be retained and would accord with the aims of policy R13 of the UDP.

### Representations

- 10.20 The representations received have been carefully considered during the course of the application and addressed where appropriate in this assessment. Each summarised point is however, responded to below:-

1. Doesn't appear to be sufficient parking for 6 industrial started units.

**Response:** *An assessment has been set out in the 'Highways issues' section of this report in relation to the parking provision. The number of parking spaces proposed is considered to be broadly in line with the standards set out in policy T19 of the UDP.*

2. No information relation to the expected use of the units and the possibility of 24 hrs operation.

**Response:** *Due to the proposal being for industrial 'starter units', there have been no details submitted in regard to the end user or the hours of operation. Following consultation with the Council's Environmental Services, they have not raised this as an objection. It is proposed to condition the hours of use of the development to not before 7am and not after 10pm. A further condition is also recommended in relation to the submission of a noise report and appropriate mitigation measures in order to safeguard the amenity of surrounding occupants.*

3. Impact on value of property.

**Response:** *This is not a material planning consideration.*

4. A public footpath is shown running on the inside of the boundary of neighbouring dwellings.

**Response:** *During the course of the application, an amended plan has been submitted which ensures that the new boundary fencing would be set 1.0m away from the southern boundary. It should however be noted that the definitive line of the public footpath does in fact, run along the inside boundary of the neighbouring properties at nos.2 and 5 Brookers Field.*

5. The site notice was only erected allowing 9 days to object.

**Response:** *The publicity for this application, which was received on 25 October 2016, has been carried out in accordance with the Council's relevant procedures set out in the Development Management Charter. More than 21 days have passed since the application was advertised by site notice and the application being determined.*

6. The brownfield land would be better used for housing development.

**Response:** *Noted however, as previously set out, this is a mixed use area, where there are existing commercial premises. The proposed use is therefore considered by officers to be appropriate in this location.*

7. Local businesses object and are duly concerned about the validity of continuing to trade in the area, due to issues of parking which looks to be exacerbated if the plan goes ahead.

**Response:** *In order to safeguard how the existing businesses operate, further information is in the process of being submitted by the applicant and will form part of the Transport Statement. It is however, the opinion of officers that the proposed development would be compatible with the surrounding commercial activities.*

8. The suggestion that only 6 full-time jobs will be created is ridiculous – the figure has been given in an attempt to reduce the assessment of environmental impact through vehicular movement.

**Response:** *Noted. The proposals have been assessed in relation to parking standards and trip generations, which are set out in the additional Transport Statement submitted during the course of the application. This information has been assessed by HDM and is considered acceptable to demonstrate that the proposal would not cause significant harm to highway safety and efficiency.*

9. For short periods of time throughout the day, loading and unloading of a nearby business premise will block the access road – the proposal would affect the viability operations and deter future investment in machinery and local jobs for the existing business.

**Response:** *Further information is in the process of being submitted by the applicant in relation to this matter. The further information shall be reported to members in the update.*

10. There is serious traffic congestion, particularly as wagons for the local industrial premises park alongside both sides of the street, causing obstruction. There is insufficient capacity for more wagons.

**Response:** *HDM has assessed the proposals and, as set out the 'Highways issues' section of this assessment, is considered acceptable.*

11. Para. 6.7.2 of "Manual for Streets" sets out that the kerb to kerb width of the road should be at least 3.7m – in this case, it is just 4.1m – this has safety implications for pedestrians and cyclists wishing to access their place of work.

**Response:** *HDM has assessed the proposals and have confirmed that the access serving the site is acceptable for the use proposed.*

12. If planning permission is approved, double yellow lines must be painted along both sides of Oxford Road.

**Response:** *HDM have not requested that double yellow lines should be painted along Oxford Road.*

13. The landowner has cut down a number of trees – even though the application form states that there are "no trees". The site was cleared before the application was submitted, with no regard to wildlife or wildlife habitat.

**Response:** *There were no protected trees located on this site, or adjacent to the site, and therefore, the trees could be removed without requiring consent. A condition is recommended below relating to the submission of an Ecological Design Strategy which would include appropriate ecological mitigation measures, in accordance with the aims of chapter 11 of the NPPF.*

14. Challenge the validity of the application because a transport statement or assessment should be included (para. 32 of the NPPF).

**Response:** *A Transport Statement has been submitted during the course of the application.*

15. Challenge the validity of the application because the applicant has failed to provide a Design & Access Statement, and there are no details of the location of the 20 parking spaces or provision for delivery vehicles.

**Response:** *Officers are satisfied that adequate information has been submitted in order to assess the proposals.*

16. The applicant has not carried out consultation or engaged with the local community, contrary to para. 66 of the NPPF.

**Response:** *Whilst good practice, the applicant does not have a statutory duty to consult or engage with the local community.*

17. Attention is drawn to policy T2 of the UDP, in which the council commits to improving accessibility, the highway network, road safety and environmental conditions. Reference also made to policy T10 of the UDP.

**Response:** *The proposals have been fully assessed by officers and, for the reasons set out the assessment along with the inclusion of appropriate conditions, the proposals are considered acceptable from a highway network, road safety, and environmental perspective.*

18. If the development goes ahead, will it be subject to a payment of a Community Infrastructure Levy (CIL)?

**Response:** *CIL has not yet been introduced at Kirklees.*

### Other Matters

10.21 *Coal Mining Legacy:* The application site is located within an area that has been identified as 'High Risk' in relation to coal mining legacy. As such, during the course of the application a Coal Mining Risk Assessment (CMRA) was submitted. This has been assessed by the Coal Authority who have confirmed that, subject to the inclusion of appropriate conditions, the proposals are acceptable from a coal mining legacy perspective, in accordance with the aims of chapter 11 of the NPPF.

10.22 *Ecology:* Consultation has taken place with the Council's Ecologist who has confirmed that there is no concern with regard to habitats on site however there are some reasonable habitats just outside the boundaries (e.g. hedges and scrub areas that might be ideal for bats/birds etc). In light of this, a condition is recommended relating to the submission of ecological enhancement through an Ecological Design Strategy. The inclusion of such a condition would ensure that the proposals comply with the aims of chapter 11 of the NPPF.

10.23 *Flood Risk and Drainage:* The site is located within Flood Zone 1 and therefore has a very low probability of flooding. The proposal is therefore considered to comply with the aims of chapter 10 of the NPPF.

10.24 There are no other matters considered relevant to the determination of this application.

## **11.0 CONCLUSION**

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

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

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

1. Standard 3 years to implement the permission.
2. Development to be carried out in accordance with the approved plans and specifications.
3. Boundary treatment to be erected in accordance with the submitted details.
4. Samples of facing and roofing materials to be submitted.
5. Area of parking, access, and turning to be surfaced, drained, and marked out.
6. A scheme for 'Keep Clear' markings and informative signage within the internal site access arrangement.
7. Submission of an Ecological Design Strategy.
8. Scheme relating to the installation of low emission vehicle charging points.
9. Submission of a Noise Report with appropriate mitigation measures to protect the occupants of nos. 3 and 5 Brookers Field from noise from the development prior to first use of the development.
10. Submission of a Preliminary Risk Assessment (Phase 1 report).
11. Submission of an Intrusive Site Investigation Report (Phase II report).
12. Submission of a Remediation Strategy.
13. Implementation of the Remediation Strategy.
14. Submission of a Validation Report.
15. Hours of use of the development to not before 7am and not after 10pm

**Background Papers:**

Application and history files.

Website links to view:-

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f93496>

Certificate of Ownership – Certificate A signed and dated 11 October 2016.