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**Report of the Head of Strategic Investment**

**STRATEGIC PLANNING COMMITTEE**

**Date: 13-Jul-2017**

**Subject: Planning Application 2017/90772 Change of use of part of the rail head and depot to enable the importation of construction and demolition materials via the existing site access, recycling using mobile plant and equipment, and storage of processed materials for export off site Bretton Street Rail Depot, Bretton Street, Saville Town, Dewsbury, WF12 9BG**

**APPLICANT**

Nigel Brooke, Tarmac

**DATE VALID**

06-Mar-2017

**TARGET DATE**

05-Jun-2017

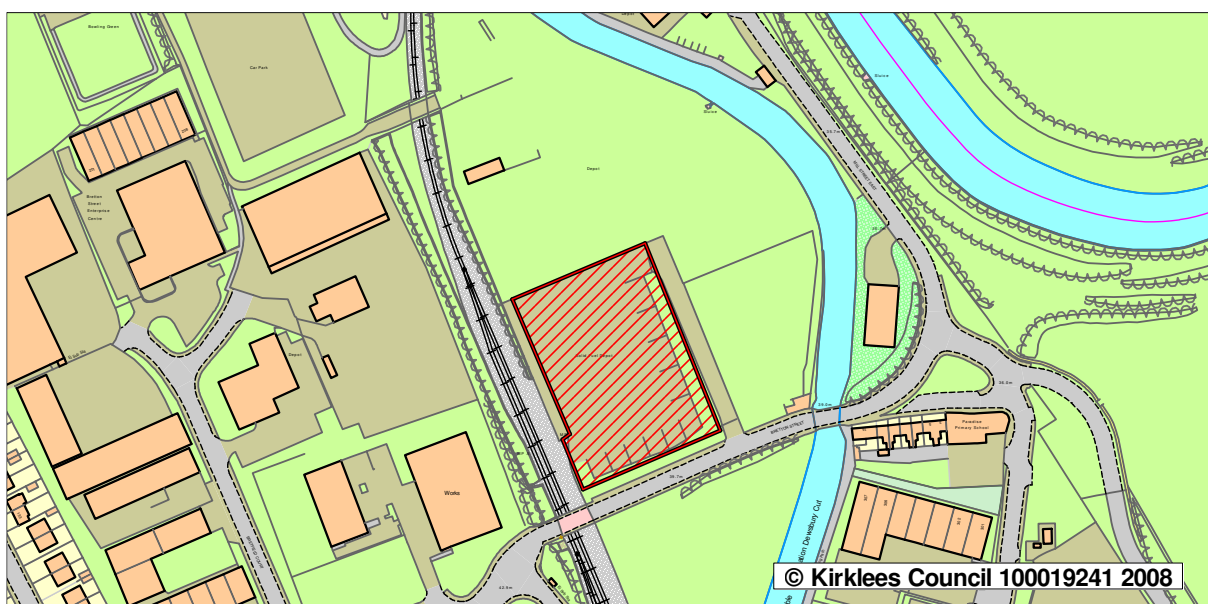
**EXTENSION EXPIRY DATE**

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<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:** Dewsbury South

Yes

Ward members notified

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**RECOMMENDATION:**

DELEGATE approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions including those contained within this report and to secure a Section 106 from the applicant confirming a financial contribution of £11,812.63 towards traffic light upgrades at the junction with Savile Road and Mill Street East to improve air quality.

In the circumstances where the Section 106 has not been submitted within 3 months of the date of the Committee's resolution then the Head of Strategic Investment shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Strategic Investment is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

**1.0 INTRODUCTION:**

This application is brought to the Strategic Planning Committee as the proposal is non-residential and exceeds 0.5ha.

**2.0 SITE AND SURROUNDINGS:**

2.1 The application site is located approximately 1.5 kilometres south of Dewsbury town centre on the eastern periphery of a complex of industrial and commercial buildings which is located to the south east of Savile Town. The application site occupies an area of approximately 7000m<sup>2</sup> and comprises a large surfaced yard, a rail offloading area, several open storage bays, site office and vehicle weighbridge. The site is currently used for the storage and distribution of aggregates which have historically been delivered to the site primarily by rail. The immediate wider area surrounding the site has a mixed residential/commercial character with commercial/industrial buildings immediately to the west of the site and the majority of residential properties to the north west and west, although the closest, an isolated group of 7 houses, are approximately 130 metres to the south east. The site is accessed via an existing surfaced roadway which serves the application site, an adjacent haulage depot and steel stocking yard.

### **3.0 PROPOSAL**

- 3.1 The applicant proposes to use part of the site for the processing of demolition materials in order to convert them into recycled aggregate materials. This would involve the use of mobile plant and equipment to crush and screen the materials, the storage of the resultant aggregates and subsequent export from the site.
- 3.2 The applicant proposes that the site would be used for the processing of a maximum of 75,000 tonnes of aggregates per annum. The demolition materials would be imported to the site on a return load basis which would ensure vehicle movements to and from the site would not increase significantly above those already associated with current activities.
- 3.3 The construction and demolition materials would be delivered to the site by HGV. The material would then be loaded into a feed hopper where it would then be fed into the crushing and screening equipment. Once graded the aggregate would be stockpiled on site before being exported by heavy goods vehicle (HGV).
- 3.4 Hours of operation proposed by the applicant would be:
- 08:00 to 18:00 Mon to Fri
- 08:00 to 13:00 Sat
- 3.5 Deliveries of construction and demolition materials and the use of the products will be in accordance with the normal operations at the site. However, it should be noted that the applicant has indicated that crushing/recycling activities will not be undertaken at weekends, bank holidays or during any of the local school holidays in any given calendar year.

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

- 4.1 The site has been used for many years in connection with the storage and distribution of various types of mineral and it is considered the following planning applications are relevant to this proposal:
- 90/06170 – Storage and processing of minerals (Approved 28.3.91)
- 94/90422 – Erection of portable unit for office use (Approved 28.4.94)
- 98/90741 – Formation of rail fed aggregate distribution depot and installation of conveyor/hopper and hot asphalt storage box (approved 24.7.98)
- 2009/91117 - Change of use from B8 use to a mixed B2 & B8 use and erection of concrete batching plant (Approved 12.11.17)

## **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 As this proposal would have a detrimental impact on air quality in the vicinity of the site, negotiations were initiated with the applicant to secure financial contribution towards a relevant air quality improvement scheme to offset the damage caused.

## **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 Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25<sup>th</sup> 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. Officers consider considerable weight can be afforded to the Publication Draft Local Plan. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

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

D2 – Development of land without notation on the proposals map

EP4 – Noise generating development

EP6 – Existing and projected noise levels

WD7 – Proposals for the use of sites for the management of waste

B1 – Employment needs of the district

### **6.3 Kirklees Publication Draft Local Plan (KPDLP): Submitted for examination April 2017**

PLP 21 – Highway safety and access

PLP 39 - Protecting existing and planned minerals infrastructure

PLP 44 – New waste management facilities

PLP51 – Protection and improvement of air quality

PLP52 – Protection and improvement of environmental quality

#### 6.4 National Planning Policies:

Section 1 – Building a strong, competitive economy

Section 10 – Meeting the challenge of climate change, flooding and coastal change

Section 11 – Conserving and enhancing the historic environment

Section 13 – Facilitating the sustainable use of minerals

National Planning Policy for waste

#### 6.5 Other Guidance

West Yorkshire Air Quality Emissions Strategy and associated technical planning guidance

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

7.1 This application was publicised by the erection of 4 site notices in the vicinity of the site and the mailing of 9 neighbourhood notification letters. 2 representations have been received with regard to this proposal and the issues raised can be summarised as follows:

- This proposal would further add to the problem of dust which is generated by existing commercial activity in this area.
- This proposal would be detrimental to highway safety due to an increase in vehicle movements
- This development would lead to disturbance during unsocial hours

7.2 Ward members have been consulted on the proposal but no comments have been received.

### **8.0 CONSULTATION RESPONSES:**

#### **8.1 Statutory:**

K C Highways DM – No objections in principle subject to existing planning conditions being retained.

## 8.2 **Non-statutory:**

K C Environmental Health – No objections subject to mitigation measures being implemented to offset the damage to air quality resulting from this proposal and a planning condition restricting hours of operation to:

08:00 to 18:00 Mon to Fri

08:00 to 13:00 Sat

No activities to take place on Sundays or Bank Holidays

Environment Agency – No objections

Railway Infrastructure Manager – No objections

## 9.0 **MAIN ISSUES**

- Principle of development
- Residential amenity
- Highway issues
- Drainage issues
- Representations
- Other matters

## 10.0 **APPRAISAL**

### 10.1 Principle of development

10.2 The site is unallocated on the UDP proposals map and Policy D2 is therefore relevant to this proposal. However, as the development would involve the management of waste it is considered that UDP policy WD7 is the principal policy consideration.

10.3 Appendix A the National Planning Policy for Waste contains a waste hierarchy which Waste Planning Authorities are expected to consider when dealing with planning applications for waste related development. The aim being to, where possible, move the management of waste up the waste hierarchy. The hierarchy is outlined below:

The most effective environmental solution is often to reduce the generation of waste, including the re-use of products – <b>prevention</b>
Products that have become waste can be checked cleaned or repaired so that they can be re-used – <b>preparing for re-use</b>
Waste materials can be reprocessed into products, materials or substances – <b>recycling</b>
Waste can serve a useful purpose by replacing other materials that would otherwise have been used – <b>other recovery</b>
The least desirable solution where none of the above options are appropriate- <b>Disposal</b>

Although this indicates that the most effective environmental solution to the generation of waste is waste prevention, it also indicates that the re-use and recycling of materials are the next best options. Consequently Planning Authorities are encouraged to take a positive approach when considering applications to use appropriate sites for the re-use/recycling of waste.

- 10.4 In this instance the imported waste would be processed to form recycled aggregates. It is therefore considered that as this proposal would see the re-use of a significant proportion of inert waste material, which would otherwise be sent to landfill, it is consistent with national planning guidance relating to waste.
- 10.5 Para 142 of the NPPF indicates that since minerals are a finite natural resource, and can only be worked where they are found, it is important to make best use of them to secure their long-term conservation. The use of recycled aggregates helps to conserve primary aggregate resources and Mineral Planning Authorities are expected, through the panning process, to encourage the production and use of such materials to reduce the need to extract primary resources. This development would therefore accord with Section 13 of the NPPF.
- 10.6 In addition to the above, this proposal represents the expansion of existing business premises thus Policy B1 of the UDP applies. UDP policy B1 (ii) indicates that the employment needs of the district will be met by maintaining the stock of established business and industrial premises.

Subject to the matters outlined under Policy B1 not being prejudiced, the principle of this proposal would be acceptable.

The National Planning Policy Framework 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 pro-actively to meet the development needs of business and support an economy fit for the 21<sup>st</sup> century.”

- 10.7 Consequently the principle of this development is therefore acceptable providing it does not conflict with the criteria stipulated in Unitary Development Plan Policy WD7.

UDP policy WD7 states:

“ proposals for the use of land for the receipt, storage, treatment including incineration and recovery of useful materials and transfer of waste including the use of land as a scrapyards will normally be permitted where:

- i the visual impact of the proposals does not cause detriment to residential properties and the quality of the landscape or townscape setting;
- ii provision can be made for the suppression of noise, dust, odour, smoke and flue gas emissions from the site so that the amenity of occupiers of adjacent properties, in particular residential properties, is protected;
- iii contamination of land and pollution of groundwater and surface water, on and off the site, can be prevented;
- iv access, vehicle manoeuvring and customer and employee car parking arrangements can be accommodated without prejudice to highway safety and maintenance; and
- v sites do not adjoin land permitted or allocated for any use which would be adversely affected by the proposed use.”

- 10.8 Due to the stage the emerging Local Plan has reached with regard to the examination process, it must now be given considerable weight in the consideration of planning applications. The implications of this proposal on the emerging plan must therefore be considered. Emerging Local Plan policy PLP 39 specifically identifies this site as a protected minerals infrastructure site due to its railhead and historic use as an aggregates stocking yard. It is considered that this proposal would not conflict with this allocation as the activities on site would produce recycled aggregates and the proposed use would be easily reversible as plant and equipment used would be mobile and not fixed. It is therefore considered that this proposal would not preclude the continued use of the site for the import, storage and distribution of minerals via rail or road.



## 10.9 Residential Amenity

- 10.10 The site is located within an area that is predominantly commercial in character. However there is a small group of residential properties to the south east approximately 130 m from the site with further concentrations of dwellings approx. 200m north west at Hebble View and 250m to the west off Headfield Road. Current permitted activities on site involve the unloading and loading of aggregates using a mechanical excavator and associated heavy vehicle movements to and from the site. This proposal would introduce an industrial process to the site and as a consequence additional noise sources which could potentially cause nuisance to residents or other businesses nearby.
- 10.11 The applicant has produced a noise assessment report in support of this application which concludes that the additional noise associated with the proposed development is unlikely to adversely impact on the existing noise climate at the residential dwellings nearest the site. Furthermore the applicant has indicated that crushing and screening operations would not be carried out at weekends or during holiday periods. It is therefore considered that this proposal would be acceptable in terms of UDP policy EP4 and EP6, KPDL policy PLP52 and guidance contained in Section 11 of the NPPF with regard to potential noise nuisance.
- 10.12 The character of the area in the vicinity of the site is predominantly commercial in character and includes manufacturing activities, haulage activities, steel stocking and cement manufacture. Consequently the visual amenity of the area has already been significantly influenced by these uses.
- 10.13 The site is surrounded by mature trees and vegetation which offers an effective screen and direct views of the site from the nearest residential properties cannot be gained when this vegetation is in full leaf. Whilst the effectiveness of this screen would reduce during the autumn and winter the vegetation would still filter views of the site.
- 10.14 Consequently, whilst this proposal would introduce industrial plant and machinery to the site, based on the current commercial character of the area and the screening provided by existing buildings and vegetation, it is unlikely that this proposal would have a significant detrimental impact on the visual amenity of the nearest residents. The proposal would therefore accord with UDP policies WD7, D2 and KPDL policy PLP 44 with regard to the development's potential impact on visual amenity.
- 10.15 This proposal would generate dust which could have a detrimental impact on the amenity of the area. The principal potential sources of airborne dust associated with the proposed operations, in the absence of mitigation, include:
- material delivery, handling and transfer;
  - crushing;
  - screening;

- site plant and haulage movements;
- road transport; and
- wind blow across stockpiles and bare ground.

Additional vehicle movements to and from the site would also have a detrimental impact on air quality in the vicinity of the site.

- 10.16 The applicant has acknowledged that as a result of increased vehicle movements to and from the site, this proposal would result in a negative effect on local air quality. The applicant has produced a monetised estimate of the damage to air quality in the vicinity of the site as being £11,812.63. Officers consider that this figure represents an accurate estimate and, in accordance with the West Yorkshire Air Quality Emissions Strategy, mitigation to offset this level of damages should be provided in association with this proposal. Officers have therefore requested that the applicant make a financial contribution via a Section 106 of the Town and Country Planning Act 1990 equal to these damages towards an air quality initiative in the vicinity of the site.
- 10.17 The Council's Environment Service has indicated a suitable scheme likely to benefit from this scale of contribution would be traffic light upgrades at the junction with Savile Road and Mill Street East. The proposed upgraded system would automatically vary the light sequence dependant on traffic flow levels. This means that during low peak periods the lights would allow traffic through without the usual stop start at red signals. This reduces emissions from vehicles so improving air quality.
- 10.18 Officers consider that requesting a financial contribution to use in connection with the above scheme would meet the tests set out in the Community Infrastructure Levy Regulations 2010 (CIL) for the following reasons:
- Improvements to offset the adverse impact to air quality are necessary to make this proposal acceptable in planning terms
  - The traffic lights are located on the route of HGVs visiting the site and there is therefore a direct relationship to the development
  - The financial contribution has been assessed in accordance with the West Yorkshire Air Quality Emissions Strategy and associated technical planning guidance and therefore related in scale and kind to the development

The applicant has committed to provide the above described financial contribution should planning permission be granted and it is expected that the Unilateral Undertaking would be submitted within 3 months of the committee's resolution.

10.19 Whilst it is acknowledged that this proposal will have a negative impact on air quality in the vicinity of the site, the generation of dust could be adequately controlled via the methods indicated in the supporting Air Quality Assessment and the impact associated with vehicle emissions would be adequately offset via a contribution towards an air quality initiative in the vicinity of the site. It is therefore considered that this proposal would accord with KPDLP policy PLP 51 and Section 11 of the NPPF.

#### 10.20 Highway issues

10.21 The site currently operates as an aggregates storage and distribution depot and this use will continue in conjunction with the proposed production of recycled aggregates.

10.22 The existing operation is served by a shared surfaced access road which runs for approximately 80 metres from its junction with Bretton Street allowing access to the application site, a transport/haulage depot to the north east and a steel stocking yard to the east. At the junction with Bretton Street, the access provides adequate visibility in both directions and allows two heavy vehicles moving in opposite directions to pass.

10.23 The site already includes a purpose built wheel bath to help prevent debris from the yard being tracked onto the highway and already contains adequate parking facilities. The yard area is hard surfaced and well drained.

10.24 The applicant has indicated that the current operations at the site involve a maximum of 60 heavy goods vehicle (HGV) movements per day (30 in 30 out). It is estimated that, at maximum capacity, this proposal would increase these to a maximum of 180 vehicle movements (90 in 90 out) per day. However, the applicant considers that, based on current operations, typical daily HGV activity would be in the region of 80 movements per day (40 in 40 out). The applicant has confirmed that HGV traffic entering and leaving the site would do so via Mill Street East.

10.25 It is considered that, bearing in mind this proposal would use the existing site access, existing on site facilities and that all HGV movements would be via Mill Street East, this proposal would not have a significant detrimental impact on highway safety in the area and would therefore accord with UDP policy T10 and KPDLP policy PLP21.

#### 10.26 Drainage issues and flood risk

10.27 The application site is located in Flood Zone 1 and is therefore at low risk of a flooding event. The site is currently operational and therefore benefits from being hard surfaced and from existing drainage facilities which include interception arrangements. It is therefore considered that this proposal would accord with UDP policy WD7 , KPDLP policy PLP 27 and Section 10 of the NPPF with regard to the provision of adequate drainage for the proposal.

## 10.28 Representations

Two representations have been received with regard to this proposal, the issues raised and associated responses are summarised as follows:

This proposal would further add to the problem of dust which is generated by existing commercial activity in this area.

**Response:** This issue has been addressed in the body of the committee report in the section 'Residential amenity'

This proposal would be detrimental to highway safety due to an increase in vehicle movements.

**Response:** This issue has been addressed in the body of the committee report in the section 'Highways issues'

This development would lead to disturbance during unsocial hours.

**Response:** The applicant has indicated that the site would continue to work within the existing hours of operation which are currently:

08:00 to 18:00 Mon to Fri

08:00 to 13:00 Sat

It is proposed to repeat this requirement should planning permission be granted.

## 10.29 Other Matters

- 10.30 Members should note that this proposal will require the issue of an Environmental permit from the Environment Agency (EA) and the EA has confirmed that it is considered that any risks to people and the environment are capable of being reduced to a satisfactory level using measures to prevent, minimise and/or control pollution and that such measures would be conditioned on any associated permit.

## 11.0 **CONCLUSION**

- 11.1 The application site is located within a predominantly commercial area which would be an appropriate location for this type of development. The proposal would create an additional noise generating source but officers consider that, following a review of the supporting noise assessment, residents and businesses will not experience additional significant impacts. In addition, whilst this proposal would lead to the generation of dust, it is considered that the dust suppression methods outlined in the submission documents would provide satisfactory mitigation. Officers also consider that the proposal would not have significant adverse effects of the local highway network subject to the route of vehicles to and from the site being restricted via Mill Street East.

- 11.2 Due to the increase in heavy vehicle movements associated with this proposal, it is considered that air quality in the vicinity of the site would be detrimentally affected. However, in accordance with the West Yorkshire Air Quality Low Emissions Strategy. The applicant has confirmed a willingness to provide a financial contribution of £11,812.63 via a Section 106 Agreement towards the provision of mitigation measures which would offset the damage caused.
- 11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

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

1. Standard 3 years for implementation
2. Development to be carried out in accordance with approved plans
3. HGV routeing to be limited to via Bretton Street only in accordance with submission details.
4. All areas used by vehicles shall be retained in good condition and kept free of obstruction.
5. Existing Wheel washing facilities to be retained and used by all HGV vehicles
6. The development to be carried out in accordance with a dust suppression scheme to be approved in writing by the LPA
7. No activities to take place at the site outside the following hours:  
08:00 to 18:00 Mon to Fri  
08:00 to 13:00 Sat
8. No crushing or screening operations to take place on Sat, Sun, Bank Hols or during school holidays as per application submission
9. All aggregates produced shall be stored within the existing storage bays

**Background Papers:**

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f90772>

Certificate of Ownership –Certificate A signed 27/02/17