
Report of the Head of Strategic Investment**HEAVY WOOLLEN PLANNING SUB-COMMITTEE****Date: 28-Sep-2017****Subject: Planning Application 2016/91287 Change of use of agricultural buildings to IT recycling business Brookfield Farm, Brookfields Road, Wyke, BD12 9LU****APPLICANT**

R Seal, U Can Recycling

DATE VALID

20-Apr-2016

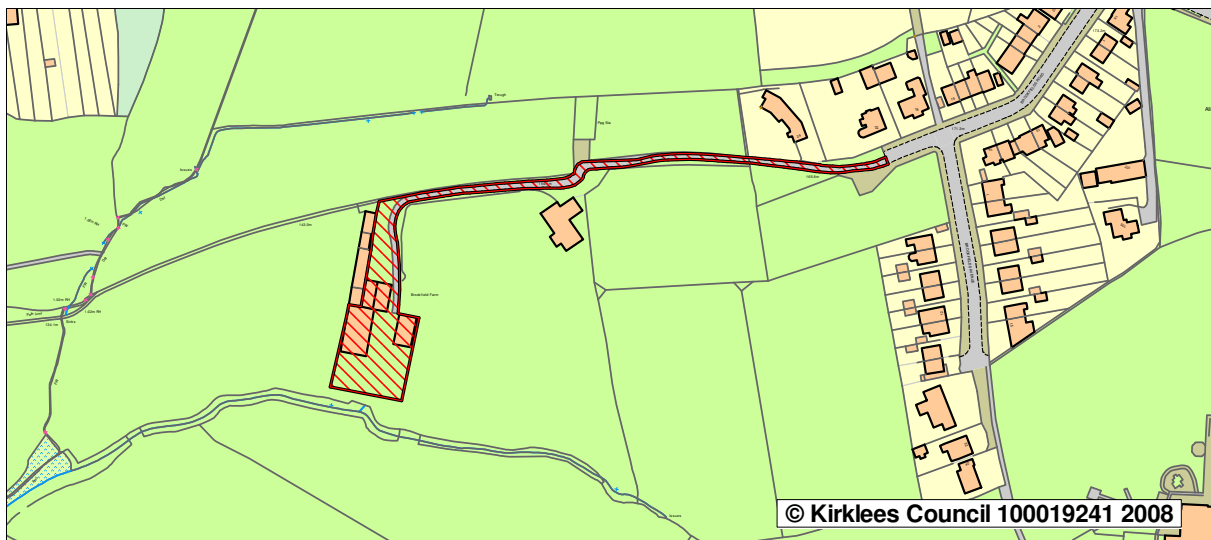
TARGET DATE

15-Jun-2016

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN

Map not to scale – for identification purposes only

Electoral Wards Affected: Cleckheaton

No

Ward Members consulted
(referred to in report)

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.

1.0 INTRODUCTION:

- 1.1 The application is brought to Heavy Woollen Planning Committee due to the significant number of objections received.
- 1.2 Councillor Andrew Pinnock has also requested that the application be considered at the Heavy Woollen Planning Sub-Committee for the following reasons:
 - (a) The activity is a business operation in the Green Belt
 - (b) The amount of vehicle movement to the site, which is already causing annoyance to the residents on Brookfields Road.
 - (c) The access to the site, beyond 22 Brookfields Road, is inadequate, both in width and, possibly, surface.
- 1.3 Councillor A. Pinnock has requested that the site be visited by members in order for them to see how the new use impacts on its neighbours.
- 1.4 The Chair of the Sub-Committee has confirmed that Councillor A Pinnock's reasons for making his request are valid having regard to the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site comprises of two farm buildings adjacent to other buildings used as stables. It is located at the end of a single lane farm track (which also forms a public footpath), approximately 200m long that provides access to the farm from Brookfields Road.
- 2.2 200m to the north and east of the site are residential estates, but otherwise the site is set within farmland in the allocated Green Belt. The closest dwelling is Brookfield Farm itself which is 70m from the subject buildings and shares the same access.

3.0 PROPOSAL:

- 3.1 Full planning permission is sought for the change of use of agricultural buildings to IT recycling. The proposal is made retrospectively and concerns two buildings either side of the farm yard. It involves the dismantling of computers etc. into their component parts for reuse or recycling.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 93/02867 change of use of farm buildings to livery stables conditionally approved 4 August 1993.
- 4.2 July 2015 – an investigation began into an alleged change of use of agricultural buildings to IT recycling – this has resulted in the submission of this application for planning permission and, if refused, the council will consider formal enforcement.
- 4.3 2015/92310 Erection of 6 dwellings at land off, Brookfields Road (adjacent site) – this application is undecided.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 A significant amount of negotiation has been had regarding concerns for highway safety. This has resulted in the submission of a traffic management plan which has also been amended from its original submission.

6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The 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 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 located within the designated Green Belt on the Kirklees Unitary Development Plan proposals map. The site is also designated as Green Belt on the Kirklees Publication Draft Local Plan.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 **EP4** – Noise sensitive development
 EP6 – Noise generating development
 WD7 – Provides guidance on proposals to use land for the storage, processing and transfer of waste
 T10 – Highway safety
 T19 – Parking standards

Supplementary Planning Guidance / Documents:

- 6.3 n/a

National Planning Guidance:

- 6.4 **National Planning Policy Framework (NPPF)**

Chapter 1 - Building a strong, competitive economy
Chapter 4 - Promoting sustainable transport
Chapter 8 - Promoting healthy communities
Chapter 9 - Protecting Green Belt land

National Planning Policy for Waste (NPPW)

Kirklees Publication Draft Local Plan: Submitted for examination April 2017

- 6.5 Policies:
 PLP1 – Sustainable development
 PLP9 – Employment and economy
 PLP21 – Highway safety and access
 PLP43 - Waste management hierarchy
 PLP44 – New waste management facilities
 PLP59 – Infilling and redevelopment of brownfield sites (Green Belt)

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 21 letters of objection have been received, all of which remark on the effect large articulated HGV's have on highway safety as the site is accessed via a residential street where children play and the farm track is also a public footpath. Following the submission of a revised transport plan and further public consultation, another 13 letters of objection have been submitted commenting on continuing problems with articulated HGV's etc. on Brookfields Road.

Other concerns are summarised as follows:

- The impact on the ecology in dealing with electronics waste and associated heavy metals,
- It is within the Green Belt,
- Noise from processing the waste,
- It will open the floodgates to expand this business,
- The farm track has new sewage pipes under it, laid by Yorkshire Water, that might crack with the weight of the lorries,

- Because of the position of the proposed development, the removal of sewage will be problematic,
- The associated farmhouse has a planning condition restricting occupation of the dwelling to those who work on the farm,
- Approving this application might lead to processing of other waste, such as food or animal waste,
- Chemicals should not be used in the processing of waste as this could contaminate the land,
- External storage of waste could lead to contamination of the land.
- The public footpath is used by children and parents attending Scholes First School and it will be dangerous for children to cross Brookfields Road when HGV's use it.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

K.C Highways Development Management – Object on the grounds that the access to the application site carries public footpath Spenborough 30 and is approximately 250m in length with an average surface width of 3.5 metres. There would still be limited passing places especially for HGV's along this route which could lead to vehicles potentially reversing long distances along this narrow access. Given that public pedestrian rights exist along this route which is substandard in width and has a lack of passing places with no separation between HGV and pedestrian use the increase in the use by HGVs is not considered to be in the best interests of highway safety.

8.2 Non-statutory:

K.C Environmental Health - No objection in principle subject to conditions controlling hours of operation and restricting waste processing to electronics such as computers.

9.0 MAIN ISSUES

- Principle of development
- Waste management issues
- Residential amenity
- Highway issues
- Drainage issues
- Planning obligations
- Representations
- Conclusion

10.0 APPRAISAL

Principle of development

- 10.1 At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with the development plan without delay and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless: – any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or – specific policies in this Framework indicate development should be restricted.

- 10.2 The site is within the Green Belt on the UDP proposals map. Policy PLP59 of the emerging Local Plan is consistent with the UDP and the National Planning Policy Framework (NPPF) and is therefore a material consideration that carries considerable weight. Proposals for partial or complete redevelopment of existing brownfield sites will normally be acceptable provided that, amongst other things:
- the existing footprint is not exceeded, unless the resulting development would bring about significant and demonstrable environmental or other improvements; and
 - the development does not result in any detrimental cumulative impact on the openness of the Green Belt. Paragraph 90 of the NPPF explains that the re-use of buildings within the Green Belt, provided they are of permanent and substantial construction, is not inappropriate in the Green Belt. The reuse of otherwise redundant buildings in this brownfield site accords with these policies, provided permitted development rights under Part 7 of the General Permitted Development Order 2015 are removed for enlargement of buildings.
- 10.3 Paragraphs 18 and 19 of the NPPF explains that the government is committed to securing economic growth in order to create jobs and prosperity, and to ensuring that the planning system does everything it can to support sustainable economic growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.
- 10.4 The proposed change of use provides employment for 8 people on a full-time basis, and as explained below, accords with the National Planning Policy for Waste.
- 10.5 The principle of the proposed development is therefore considered acceptable, unless other material considerations outweigh the benefits to the environment and the economy.

Waste management issues

- 10.6 The proposed material change of use to recycling waste computers would generally comply with the National Planning Policy for Waste and Policy WD7 of the UDP. Policies PLP43 and PLP44 of the draft Local Plan are consistent with the UDP and the National Planning Policy for Waste and as such are a material consideration and are given considerable weight in the determination of this application.
- 10.7 The waste hierarchy shown in Policy PLP43 and in Appendix A of the National Planning Policy for Waste shows that the most effective environmental solution to dealing with waste is prevention, followed by re-use, recycling, other recovery and finally disposal. The supporting information shows that redundant IT equipment is received on site and, where possible, repaired, or, if repair is not possible, then the equipment is stripped down for recycling parts etc., meaning that the proposed use falls within the preferred methods of dealing with treating waste. The concrete pad immediately adjacent to the buildings is utilised in the storage and sorting of the IT equipment. Whilst that is considered reasonable and acceptable, it would not be acceptable, in the interest of visual amenity and the openness of the Green Belt for that to spread anywhere else, so a condition is recommended to be imposed to control external storage to the concrete pad only.

Residential Amenity

- 10.8 Policy EP4 of the UDP relates to noise generating uses/operations, emerging draft local plan policy PLP44 concerns the impact of new waste management facilities on residential amenity, and chapter 11 of the NPPF sets out that planning decisions should 'avoid noise giving rise to significant adverse impacts on health and quality of life arising from noise from new development'.
- 10.9 The process involved in the recycling of IT equipment at this site generates little noise; the most audible of which is reversing beepers on forklifts etc. The distance however to neighbouring homes is considered sufficient so as not to adversely affect residential amenity. Kirklees Environmental Health do however consider it necessary to impose a condition restricting the hours of deliveries and collections to protect neighbours from the noise of passing vehicles at unsociable times.
- 10.10 From the information submitted with the application, the consultation response of Kirklees Environmental Health and inspection of the process involved in recycling IT equipment during the officer's site visit, this proposed change of use would not likely have any adverse impact on the environment or local ecology; and in any event, such is controlled by the Environment Agency. Kirklees Environmental Health do however have concerns regarding the suitability of this site for the recycling and / or processing other types of waste which may have a potential significant adverse effect on the occupiers of nearby residential properties. It is considered reasonable therefore that in the interests of residential amenity a condition be imposed restricting activities at this site to recycling of IT equipment only.

Highway issues

- 10.11 The applicant has proposed improvements to the access to the site where it is reduced to a single lane that is surfaced with a geogrid with granular infill. The improvements are set out in the amended travel plan received on 27th April 2017. The plan shows two passing places for HGVs which provide adequate visibility in either direction to minimise the chances of vehicle conflict causing reversing manoeuvres.
- 10.12 Policy T10 of the UDP states that new development will not normally be permitted if it will create or materially add to highway safety or environmental problems or, in the case of development which will attract or generate a significant number of journeys, if it cannot be served adequately by the existing highway network and by public transport. Proposals will be expected to incorporate appropriate highway infrastructure designed to meet relevant safety standards and to complement the appearance of the development.
- 10.13 Policies PLP20 and 21 of the draft Local Plan encourage the provision of vehicle charging points, and although go to greater detail than policy T10 of the UDP, state that new development will not normally be permitted if in the case of development which will attract or generate a significant number of journeys, cannot be served adequately by the existing highway network and by public transport.

- 10.14 Chapter 4 of the National Planning Policy Framework requires that all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Development should only be prevented or refused on transport grounds where residual cumulative impacts of development are severe.
- 10.15 No improvements are proposed to the highway network beyond that part of the track that is within the red line boundary of the location plan. Beyond that is a 60m section of single track that joins to the adopted part of Brookfield Road which is two lanes wide and passes through a small housing estate. The majority of dwellings here have the benefit of off street parking; so on-street parking is considered limited.
- 10.16 Further negotiations to improve highway safety on this single track have led to a verbal proposal to simplify the council's control of the width of the track so as to minimise highway safety. The applicant proposes that the width of the hard surface on the track that is within the control of the applicant be increased to 4.5m throughout its length in accordance with the government's guidance on creating permeable hard surfaces for front gardens (a lower standard than would be required for an adoptable highway), and that the track be maintained and hedges cut so as to not intrude within this width. In addition it is proposed to include three refuge areas on the north side of the far western part of the track and to set the fence back 1.2m on the north side of the other part of the track and erect a hand rail to keep pedestrians safe. Further details of these proposals can be required by condition.
- 10.17 The amended Travel Plan dated April 2017 provides a mechanism for controlling the frequency and times of HGV visits. However, it was considered that the inclusion of multi-axle articulated HGV's capable of carrying up to 44 tonnes would have a significant and adverse effect on highway safety. After a lot of negotiation the applicant has proposed to limit the size of HGV's to 18 tonnes (2 axle rigid) and to limit the number of visits to 17 per week and limited to differing times of the day so that no HGV traffic overlap occurs with HGV movements limited to between 8am and 4pm Monday to Friday on the delivery days. All suppliers and contractors at the site shall be informed of these delivery/ collection times, and shall expect rigid enforcement. The applicants will continue to communicate directly with hauliers/ suppliers/ contractors so that HGVs can only access the site in accordance with this Traffic Management Plan. Hauliers will wait at appropriate holding areas as appropriate on the wider network if required, so that delivery times and number of HGVs arriving at the site can be managed to minimise the impact on local residents of Brookfields Road and Brookfields Avenue."
- 10.18 Nearly all of the letters of objection focus on concern for highway safety on Brookfields Road. This is a two lane highway with 2.5m wide pavements on either side serving a total of 42 dwellings in this small estate and Brookfield Farm. Reports have been made of conflicts with HGVs waiting on Brookfields Road for other vehicles to leave the farm before they enter, or parking up to finish their paperwork when they leave, or even have their lunch. There is also a lot of concern for the safety of children playing in the street. It is accepted that using Brookfields Road and a waiting place for HGV's is detrimental to highway safety and potentially residential amenity. Such large vehicles could obstruct the view of motorist exiting their drives and so it is considered reasonable to impose a condition preventing such parking and waiting of

HGV's. In *Davenport v Hammersmith and Fulham LBC*, *The Times*, April 26, 1999 the Divisional Court (Rose L.J and Richards J.) held that a planning permission relating to land that was outside an application site, or that was outside the control of the applicant for such permission, was valid so long as it could be complied with.

- 10.19 Due to the short length of Brookfields Road at a right angle to Westfield Lane, large vehicles will not likely achieve the speed limit (30mph), and will likely be travelling at lower speeds than other vehicles that use this highway. There are no reports contrary to this in the many objections received. Due to the benefit of wide pavements, driver visibility is good. There is no evidence to suggest therefore that the infrequent use of this highway by HGV's will significantly increase the risk to children or other pedestrians.
- 10.20 The applicant explains that through management of delivery and collection times, and the low frequency of such vehicles visiting the site, that the risk of HGV's meeting on a section of the track that does not have a passing place, is minimal. In the two years of operating this site, even with the existing track conditions, there have been no reports of HGV's or other vehicles being forced to reverse on it. The applicant hopes that the proposed improvements to the track and compliance with the Travel Plan will overcome concerns for highway safety.
- 10.21 Kirklees Highways Development Management commented as follows: "this site remains unchanged given that the access to the application site carries public footpath Spenborough 30 and is approximately 250m in length with an average surface width of 3.5 metres. It is not suitable for use by articulated HGV's. There would still be limited passing places especially for HGV's along this route which could lead to vehicles potentially reversing long distances along this narrow access. Given that public pedestrian rights exist along this route which is substandard in width and has a lack of passing places with no separation between HGV and pedestrian use the increase in the use by HGV's is not considered to be in the best interests of highway safety.
- 10.22 Officers have visited this site on numerous occasions to try and reach an acceptable compromise in view of concerns raised above by Kirklees Highways Development Management. Officers are of the opinion that delivery and collection times should accord with those specified in the submitted Travel Plan, except that the start time should be 9am and not 8am. The applicant says "HGV's would inevitably set off early in the morning and, if restricted to not arriving until 9am, would most likely park up on nearby public roads." The applicant has proposed to limit the weight of HGV's entering the site to 18 tonnes maximum gross weight with no articulated HGV's. Due to the reduction in size of vehicles he proposes to increase the number of visits to the site to 17 per week.
- 10.23 Kirklees Highways Development Management has considered the proposal to restrict the size of vehicles entering the site and the subsequent increase in number of vehicles to 17 week. Although the proposal is less than ideal in terms of highway safety, it is considered that these further proposed restrictions significantly reduce the adverse effect on highway safety.
- 10.24 The provision of vehicle charging points, although not proposed, will meet the requirements of the NPPF and Policy PLP21(g)

Drainage issues

- 10.25 The processes involved in recycling IT equipment as proposed will have no adverse effect on existing drainage demands at this site.

Representations

- 10.26 As noted above, 21 letter of representation have been received in response to the first site notice and 13 letters have been received in response to the second site notice (following submission of the first transport management plan).

Officers respond to the issues raised as follows:

- Highway safety on a residential street where children play and the farm track is also a public footpath.
Response: *Although the impact on the highways is not ideal, it is considered that a restriction on size, numbers, and delivery times of HGV's is adequate to mitigate the significant harm that could otherwise arise and substantiating a reason for refusal on this basis would be difficult to defend on appeal.*
- The impact on the ecology in dealing with electronics waste and associated heavy metals.
Response: *The day-to-day control of the proposed electrical waste recycling is governed by the Waste Electric and Electronic Equipment (WEEE) Regulations 2013. There is no evidence to show that this activity will otherwise adversely affect the environment.*
- It is within the Green Belt.
Response: *the re-use of agricultural buildings is not inappropriate within the Green Belt provided it does not affect its openness.*
- Noise from processing the waste.
Response: *The site is considered to be far enough away so as to not adversely affect residential amenity.*
- It will open the floodgates to expand this business
Response: *Planning permission will be required for the expansion of this use outside the red line boundary and for any enlargement of buildings as permitted development rights are withdrawn.*
- The farm track has new sewage pipes under it, laid by Yorkshire Water, that might crack with the weight of the HGV's.
Response: *It is the responsibility of the statutory provider (Yorkshire Water) to ensure that pipes laid under a highway used by vehicles can withstand such use. This is a historic farm track where it is reasonable to expect heavy vehicular use.*
- Because of the position of the proposed development, the removal of sewage will be problematic.
Response: *These buildings already exist. The proposed use is not expected to have any significant effect on how sewage is already dealt with.*

- The associated farmhouse has a planning condition restricting occupation of the dwelling to those who work on the farm.
Response: *This is not a necessary to the determination of this application.*
- Approving this application might lead to processing of other waste, such as food or animal waste.
Response: *It is recommended that a condition be imposed to prevent this.*
- Chemicals should not be used in the processing of waste as this could contaminate the land.
Response: *Again, the day-to-day control of the proposed electrical waste recycling is governed by the Waste Electric and Electronic Equipment (WEEE) Regulations 2013.*
- External storage of waste could lead to contamination of the land.
Response: *Again, the day-to-day control of the proposed electrical waste recycling is governed by the Waste Electric and Electronic Equipment (WEEE) Regulations 2013.*
- The public footpath is used by children and parents attending Scholes First School and it will be dangerous for children to cross Brookfields Road when HGV's use it.
Response: *The public footpath is open to use by all public. It is recognised however that school crossing patrols are often used in areas of heavy volumes of traffic. The Travel Plan will not significantly add to the volume of traffic. The use of the public footpath by parents and children does not therefore materially increase concerns for highway safety over and above existing concerns for the safety of the general public.*

11.0 CONCLUSION

- 11.1 The Unitary Development Plan comments on the Council's vision statement at the time of its inception in 1999. There are three corporate goals; a thriving economy, a flourishing community and a healthy environment. Although that plan is now out of date, a thriving economy is still of significant importance. Considering that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth, (paragraph 19 of the NPPF), substantial weight has to be given to the benefits that this application brings to the local economy and provision of employment. Substantial weight should also be given to the benefits of re-using and recycling electrical equipment.
- 11.2 Highway safety also carries substantial weight in applications for planning permission. It is therefore a question of balance as to whether or not the highway safety concerns outweigh the benefits this application brings to the environment and the local economy. Given the proposed improvements to the single lane road increasing its width for most of its length to 4.5m (enough for two cars to pass each other or an HGV and pedestrians), the low frequency of HGV's as controlled by the Travel Plan and the proposal to limit the size of HGV's, officers recommend approval of the application subject to conditions detailed below.

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

1. Restrict operations to IT recycling only and specifically excluding any other type of waste processing
2. Restrict delivery and collection operations those prescribed in the Travel Plan (subject to amendment of the start times, a limit the gross weight of HGV's to 18 tonnes and limit the number of HGV's visiting the site to 17 per week).
3. HGV's delivering or collecting from the site shall not park Brookfields Road or Brookfields Avenue at any time, be it for waiting to enter the site or for any other reason.
4. Require details to be submitted for approval of the proposed refuge areas, the setting back of the fence, provision of a path with protective hand-rail and the increase in width of the single track road that is within the control of the applicant to 4.5m (to the government's standard for permeable hard surfaces). That within 28 days of approval the scheme be completed and retained.
5. That access road be kept clear of mud and debris, that hedgerows be controlled so as to not intrude within the 4.5m width of the road.
6. Remove permitted development rights for enlargements of buildings
7. Open storage shall be limited to the existing concrete hard surface immediately adjacent to the buildings
8. One vehicle charging point to be provided within 2 months of this decision notice.
9. Hours of use of the premises including deliveries to be controlled

Background Papers:

Application and history files web links.

2016/91287 -

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f91287>

2015/92310 -

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2015%2f92310>

93/02867 –

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=93%2f02867>

Certificate of Ownership – Certificate B completed with notice served on:- Mr Seal, Brooksfield Road, Wyke, BD12 9LU and Mrs B Lewin, 24 Brookfields Road, Wyke. Dated 18 April 2016.