
Report of the Head of Strategic Investment

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 12-Oct-2017

Subject: Planning Application 2016/91900 Change of use and alterations from B2 (general industrial) to B8 (storage or distribution) The Pink Link Ltd, Crosland Road, Oakes, Huddersfield, HD3 3PA

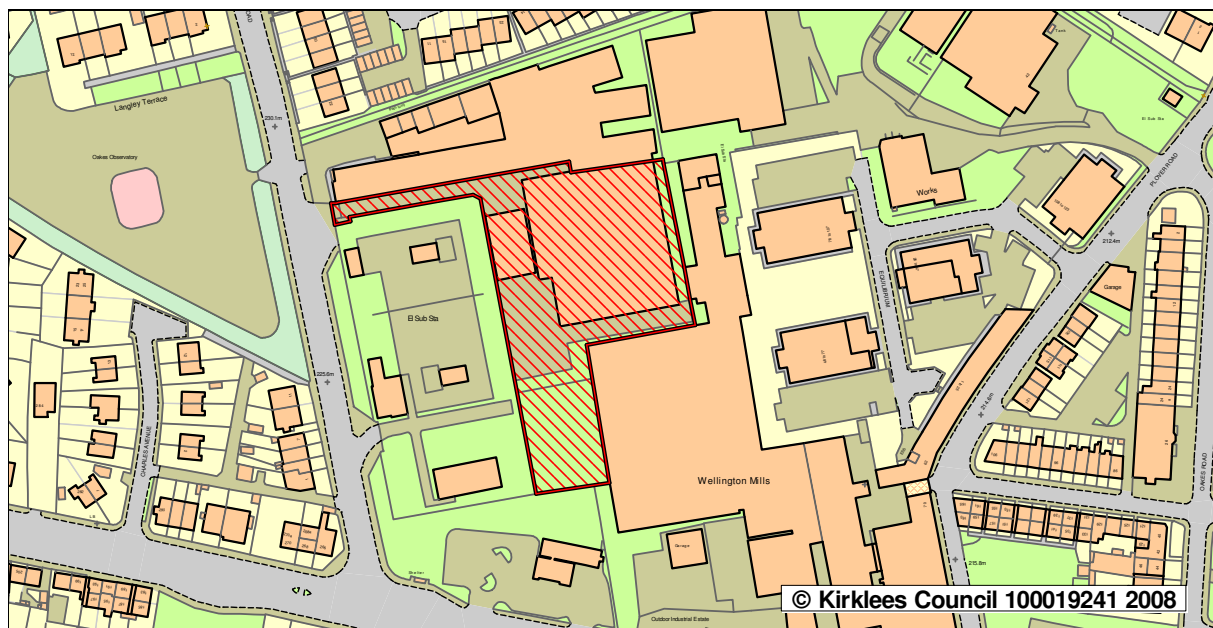
APPLICANT

Richard Alan, The Pink
Link Limited

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: Lindley

No

Ward Members consulted

Public or private: Public

1.0 INTRODUCTION:

1.1 This item is to provide an update to the sub-committee as to whether The Pink Link have adhered/are adhering to the terms of the planning permission which was approved at the Sub-Committee meeting on 20th April 2017. This is in accordance with the committee resolution which required such a report to be brought before members six months' after the original resolution.

2.0 BACKGROUND:

2.1 At the Sub-Committee meeting on 20th April 2017 the committee resolved to approve planning application 2016/91900 for change of use and alterations from B2 (general industrial) to B8 (storage and distribution). This was a retrospective application because the applicant (The Pink Link) was already operating from the site.

2.2 The committee resolution was as follows:

1. 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 contained within the considered report including:
 1. Development in accordance with the approved plans.
 2. Development in accordance with the approved night-time noise management plan.
 3. Details of the layout and surfacing of the car park for visitors and staff to be submitted within 4 weeks of approval and provided within four weeks following approval of the details.
 4. Details of a turning area for 16.5 metre long service vehicle to be submitted within 4 weeks of approval and provided within 3 weeks of approval of details.
2. Secure a S106 Obligation (Unilateral Undertaking) for a financial contribution towards the upgrade of front facing bedroom windows within 11 Crosland Road.

3. That, pursuant to (2) above, In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Development Management 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 Development Management is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

In addition it was also agreed that a report would be submitted to the Committee in 6 months' time to assess adherence to the terms of the permission.

- 2.3 The committee resolution was in line with the officer recommendation (with the exception of a report being submitted in six months' time). A copy of the original committee report is included at appendix 1.
- 2.4 The planning permission was issued on 24th May 2017. A link to the application webpage and decision notice is included at section 7.

3.0 CONSULTATION RESPONSES:

KC Highways Development Management – No issues raised

KC Environmental Services – Were made aware of a noise nuisance complaint from a near neighbour in September 2017. The allegation is in relation to the night-time operation of the premises and specifically roller shutter doors being left open which has resulted in noise nuisance.

4.0 KEY POINTS:

Planning conditions:

- 4.1 Condition 1 of the permission states:

1. 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.

Reason: *For the avoidance of doubt as to what is being permitted and to accord with Policies BE1, D2, EP4, EP6 and T10 of the Kirklees Unitary Development Plan and guidance in the National Planning Policy Framework.*

- 4.2 This is a standard condition which the Local Planning Authority attaches to all permissions. There are not considered to be any issues with this condition.

4.3 Condition 2 of the permission states:

2. The development hereby permitted shall be carried out in accordance with the approved Night-time Noise Management Plan dated October 2016.

Reason: *To mitigate noise disturbance to nearby residential properties in the interests of amenity and health and to accord with Policies BE1, D2, EP4 and EP6 of the Kirklees Unitary Development Plan and guidance in the National Planning Policy Framework.*

4.4 The approved night-time noise management plan sets out how noise egress from the building, external staff noise, external forklift truck movements and HGV movements within the site will be managed in order to minimise disturbance to nearby residential properties.

4.5 Kirklees Environmental Services have been consulted and have advised that they were recently informed of a noise complaint from a near neighbour. This was in relation to the night-time operation of the premises and specifically roller shutter doors being left open which it is alleged has resulted in noise egress resulting in nuisance.

4.6 The night-time noise management plan identifies noise associated with loading and unloading of vehicles and states that this unloading and reloading is predominantly undertaken within the building. "Throughout the internal loading and unloading the roller shutter loading doors and pedestrian access are to be kept shut. The roller shutter doors opening and closing operation to allow fork lift truck and HGV access will be the responsibility of the Night Manager".

4.7 The noise nuisance complaint suggests that the Pink Link may not be operating fully in accordance with their night-time noise management plan and so are potentially in breach of condition 2 of the permission.

4.8 In light of this, Planning Enforcement will write to the Pink Link reminding them of their responsibilities with regard to the night-time noise management condition and will monitor the situation in conjunction with colleagues in Environmental Services.

4.9 Condition 3 of the permission states:

Notwithstanding the submitted layout plan, details of the layout and surfacing of the parking area for visitors and staff within the site shall be submitted to the Local Planning Authority within four weeks of the date of this permission. The layout and surfacing details as approved by the Local Planning Authority shall be implemented in their entirety within four weeks following the Local Planning Authority's written approval and shall thereafter be retained.

Reason: *To ensure that adequate provision is made for vehicle parking associated with the development in the interests of highway safety. This is to accord with Policies BE1, D2, and T10 of the Kirklees Unitary Development Plan.*

4.10 Details of the staff and visitor parking area were submitted within the specified time frame under discharge of conditions application 2017/91930. The details were assessed by Highways Development Management and considered acceptable. The submitted site plan demonstrated that an acceptable number of parking spaces could be provided within the site. It was agreed that the parking would not be marked out into bays because it was considered that a more informal arrangement was likely to enable more vehicles to be accommodated when necessary. The surfacing of the area was also deemed acceptable in its existing form. The details were approved by way of decision letter dated 23rd June 2017.

4.11 Condition 4 of the permission states:

4. Notwithstanding the submitted layout plan, details of a turning area within the site for a 16.5 metre long service vehicle shall be submitted to and approved in writing by the Local Planning Authority within four weeks of the date of this permission. The turning area as approved by the Local Planning Authority shall be implemented in its entirety within three weeks following the Local Planning Authority's written approval and shall thereafter be retained.

Reason: *To ensure adequate space within the site for vehicle tuning in the interests of highway safety and to accord with Policies BE1, D2, and T10 of the Kirklees Unitary Development Plan.*

4.12 Details of the HGV turning area were submitted within the specified time frame under discharge of conditions application 2017/91930. The details were assessed by Highways Development Management and considered acceptable. The plan demonstrated that the existing site layout could accommodate the size of vehicle required. The details were approved by way of decision letter dated 23rd June 2017.

S106 Obligation (Unilateral Undertaking)

4.13 A signed Unilateral Undertaking dated 22nd May 2017 was submitted which provided for an agreed figure for the upgrade of front facing bedroom windows at 11 Crosland Road in order to mitigate the impact of noise emanating from the site. The Pink Link paid the figure to the council in accordance with the obligation.

4.14 The works to upgrade the windows at 11 Crosland Road were carried out in July 2017, as confirmed by the company who installed the windows. The council has subsequently paid the S106 money directly to the window company.

4. IMPLICATIONS FOR THE COUNCIL:

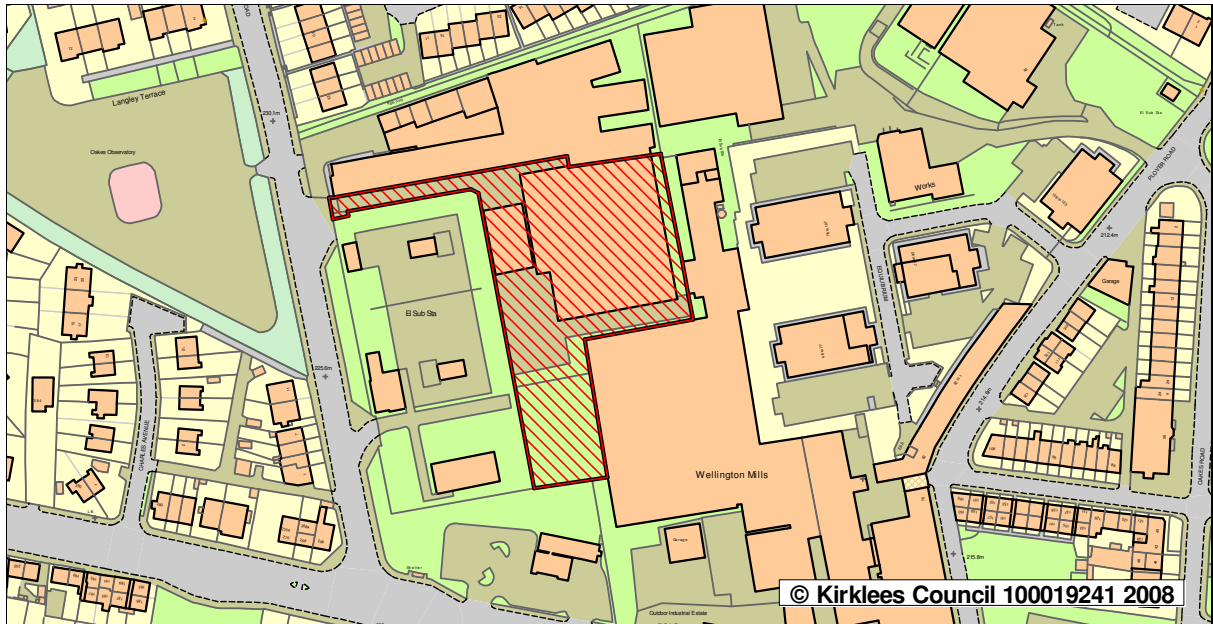
4.1 There are not considered to be any implications for the council beyond monitoring the site following the alleged noise complaint and responding to any further breach of conditions allegations or statutory noise complaints that may arise in the future.

5. OFFICER RECOMMENDATIONS AND REASONS

- 5.1 Write to the Pink Link reminding them of their responsibilities with respect to condition 2 (night-time noise management) and monitor the site in conjunction with Environmental Services, for the reason set out in this report.

APPENDIX A – Original Committee Report

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected:

Lindley Ward

No

Ward Members consulted

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 and to secure a S106 agreement to cover the following matters:

1.secure a S106 Obligation (Unilateral Undertaking) for a financial contribution towards the upgrade of front facing bedroom windows within 11 Crosland Road.

In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Development Management 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 Development Management is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

1.0 INTRODUCTION:

1.1 The application is brought to the Sub-Committee because of the size of the site, in accordance with the Council's scheme of delegation.

2.0 SITE AND SURROUNDINGS:

2.1 The site comprises of a large building and yard area currently occupied by The Pink Link road hauliers. There is a driveway off Crosland Road that provides access to the site.

2.2 Immediately to the north of the site is a food production business (Pennine Food Ingredients Limited) with residential development beyond. To the south of the site is a Merrie England coffee shop and Britannia Mills which is in commercial use. Part of the Britannia Mills complex abuts the eastern site boundary with modern apartment buildings lying slightly further to the east. To the west is an electricity substation site. On the western side of Crosland Road is a row of six houses that are around 60m from the site access.

3.0 PROPOSAL:

3.1 The application is for change of use and alterations from B2 (general industrial) to B8 (storage and distribution).

3.2 This is a retrospective application; The Pink Link business has been operating from the premises since July 2014.

3.3 The business operates six days a week. The site is operational from 0600 on Mondays to midday on Saturdays.

4.0 RELEVANT PLANNING HISTORY:

4.1 Enforcement case:

COMP/15/0150 - Alleged unauthorised change of use to warehouse/distribution

The application before the committee has been submitted as a result of the above enforcement investigation in order to regularise a breach of planning control in respect of the unauthorised use of the premises.

5.0 HISTORY OF NEGOTIATIONS:

5.1 Officers have sought to mitigate the noise impacts associated with the development on the amenity of adjacent residential properties. This has resulted in the submission of a night-time noise management plan for the on-site operations and an offer from The Pink Link to pay up towards the upgrade of bedroom windows within the front of 11 Crosland Road in order to attenuate the night-time noise impact of vehicle movements. The owner of 11 Crosland Road has objected to the application.

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 published for consultation on 7th November 2016 under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Council considers that, as at the date of publication, its Local Plan has limited weight in planning decisions. However, as the Local Plan progresses, it may be given increased weight 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 2007) remains the statutory Development Plan for Kirklees.

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

The site is unallocated on the UDP Proposals Map.

D2 – Unallocated land

BE1 – Design principles

B1 – Employment needs of district

EP4 – Noise sensitive development

EP6 – Noise generating development

T10 – Highways safety

6.3 Supplementary Planning Guidance / Documents:

None

6.4 National Planning Guidance:

NPPF - 'Core planning principles'

NPPF Chapter 4 – Promoting sustainable transport

NPPF Chapter 1 – Building a strong, competitive economy

NPPF Chapter 11 – Conserving and enhancing the natural environment

Planning Practice Guidance – Noise

7.0 PUBLIC/LOCAL RESPONSE:

7.1 Application advertised by site notice, newspaper advertisement and neighbour notification letters

7.2 Representations: One objection received

7.3 Objection received from 11 Crosland Road that lies around 60m to the south of the site access. Objection summarised as follows:

- Nature of business inappropriate in a residential setting
- Noise disturbance from vehicles accessing site and from business practices within the site. Buildings have no noise insulation.
- Noise impacting on sleep and affecting quiet enjoyment of property
- Air pollution
- Highway concerns – parking issues because of staff parking on Crosland Road, congestion on public highway, wear and tear on road surface, impact on safety of school children
- Should application be approved request that hours of operation are restricted

8.0 CONSULTATION RESPONSES:

A brief summary of consultee advice is provided below. Further details are contained within the assessment.

8.1 **Statutory:**

KC Highways Development Management – No objections on highway safety grounds.

8.2 Non-statutory:

KC Environmental Services – Concerns raised with the impact of vehicle movements on Crosland Road causing disturbance to residential properties along the access route. Issues of noise from within the site can be controlled through a noise management plan.

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Highway issues
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The application site forms part of the former Decorative Panels premises which manufactured and supplied decorative faced sheet materials, panel components and flat pack furniture. The application describes the former use of the site as a general industrial use (B2). After the business ceased operating from the premises the site was split with Pennine Food Ingredients occupying the northern part of the site from 2013 and The Pink Link subsequently occupying the remainder. The Pink Link relocated from their previous site at Netherton.
- 10.2 The site is located on land which is without notation on the Unitary Development Plan (UDP) Proposals Map and therefore policy D2 of the UDP is relevant. This states that planning permission will be granted provided that a specific set of considerations are not prejudiced. These considerations include highway safety, residential amenity, visual amenity and the character of the surroundings. The principle of the development is acceptable provided that all these considerations are not unduly prejudiced.
- 10.3 Supporting information indicates that the business employs 45 people and the application would support the continuation of the business within the local area at a site that meets its needs in terms of access to the classified road and motorway network. The principle of the development is therefore considered to be in accordance with chapter 1 of the NPPF which seeks to support sustainable economic growth. This weighs in favour of the development proposed.

Urban Design issues

- 10.4 No physical alterations are proposed as part of this application and therefore the development does not give rise to any urban design issues.

Residential Amenity

- 10.5 The site has an established use for general industry and one of the main issues is whether the impacts associated with the proposed B8 storage and distribution use would result in any significant detriment to the amenities of the area.
- 10.6 A supporting statement sets out how The Pink Link business operates from the site.
- 10.7 There are two interconnected elements to the business – a local delivery and collection and a national delivery and collection.
- 10.8 The national delivery and collection operates using large (44T) articulated HGVs and involves deliveries and collections between The Pink Link site and other regional depots. These vehicles generally leave The Pink Link site between 4pm and 8pm and return to the site prior to the local delivery dispatch which starts at 6am.
- 10.9 The local delivery and collection predominantly operates using smaller (18T and 7.5T) HGVs and make collections and deliveries between The Pink Link site and local customers. This local operation generates the most vehicle movements to and from the site between the hours of 6am and 8pm.
- 10.10 The vehicles are predominantly loaded and unloaded within the existing building throughout normal daytime working hours. At night the loading and unloading is undertaken within the existing building to prevent noise disturbance associated with external loading/unloading.
- 10.11 The site includes an ancillary office use and a small vehicle repair and maintenance workshop.
- 10.12 A noise report has been submitted with the application and identifies sound sources at the premises. These consist of HGVs (both articulated and non-articulated) calling at the premises, manoeuvring and reversing into the unit buildings and being loaded or unloaded by forklift trucks inside the buildings. Noise from the opening and closing of roller shutter doors was also identified. The report states that sound from the premises is intermittent since it exists only when HGVs are arriving or departing and being loaded or unloaded.
- 10.13 These activities take place at any time of day or night during weekdays and up to midday on Saturdays. There are no activities at the premises from midday on Saturdays until 06.00 hours on Mondays.
- 10.14 There are typically 25-30 HGVs in and out of the premises in each 24-hour weekday period consisting of 10 HGVs during weekday nights from 2300 to 0700 hours, very limited vehicle activity from 0700 to around 1600 hours, then around 15-20 HGVs in and out between 1600 and 2300 hours.

- 10.15 The noise survey did not identify any other sources of sound from the premises reaching outdoors, such as ventilation or fixed plant items.
- 10.16 The nearest dwellings to the development are:
- Nos. 1-11 Crosland Road at a distance of approximately 78m to the service yard and 100m to the front elevation of the Pink Link building. An electricity substation and a separate commercial site are located between the dwellings and the Pink Link premises.
 - No.22 Crosland Road, 11-23 Birkdale Avenue and 14-28 Oakdale Crescent at a distance of around 50m to the north and northwest of the Pink Link premises. A continuous line of industrial buildings lie in between.
- 10.17 The properties that are most likely to be affected by noise are 1-11 Crosland Road because these houses face towards the main elevation and yard area of the premises. What is more, HGVs access the site via New Hey Road which means that large vehicles are passing by these properties whilst having to accelerate uphill in a low gear. As HGVs approach the brow of the hill they are preparing to turn right into the site.
- 10.18 The properties towards the north are much more screened by built development and would either have far fewer or no HGVs passing by.
- 10.19 One objection to the application has been received and this is from number 11 Crosland Road. The main concern relates to the impact of noise including noise from activity within the site as well as from HGVs accessing the site from the bottom of Crosland Road.
- 10.20 The proposed use gives rise to a number of specific noise impacts which are intermittent but generally occur during periods when nearby residents are most likely to be affected by noise, for example evening periods, during the night and very early in the morning. Furthermore the nature and timing of noise will almost certainly be different to that generated by the previous use when the site was operated by Decorative Panels. That said, the established use of the site was an unrestricted general industrial use which therefore had the potential to generate a significant degree of noise.
- 10.21 Environmental Services have been consulted on the application and have previously been involved with a specific noise complaint from the owner of 11 Crosland Road. Environmental Services have confirmed that they have witnessed a noise problem from activities on the site due to staff leaving roller shutter doors open or partially open overnight, shouting to each other across the yard and fork lift trucks movements early in the morning. Such issues can however be controlled through the proper management of the site and to this end a night-time noise management plan has been submitted. This sets out how noise egress from the building, external staff noise, external forklift truck movements and HGV movements within the site will be managed in order to minimise disturbance to nearby residential properties.

- 10.22 Officers are satisfied that the measures set out in the management plan would help to address noise from within the site and thus mitigate the impact on the amenity of neighbouring properties. Compliance with the management plan can form a condition on the permission.
- 10.23 Environmental Services have raised concerns with the impact of noise resulting from HGVs travelling to and from the site via New Hey Road during the night. Environmental Services have carried out monitoring of the site prior to this application being submitted as part of a separate noise complaint relating to 11 Crosland Road and have witnessed that the level of vehicle noise on Crosland Road is such that it would disturb sleep within the front bedrooms of 11 Crosland Road. However given that the noise is on a public highway it cannot be classed as a Statutory Nuisance and therefore no action could be taken under Environmental Health legislation.
- 10.24 To address the concerns of the objector the applicant has offered to pay a sum of money towards the upgrade of bedroom windows within the front of 11 Crosland Road. A quote for a particular specification of glazing has previously been obtained by the objector and Environmental Services have advised that the level of glazing within the quote would be sufficient to mitigate disturbance within front facing bedrooms.
- 10.25 The applicant's offer addresses officers' concerns in terms of the impact on 11 Crosland Road. The money can be secured by way of a S106 agreement (unilateral undertaking) whereby the applicant would pay the money to the council and then the council would release the money to the objector once the works to the windows had been completed.
- 10.26 The applicant's offer is limited to 11 Crosland Road and does not extend to any other properties, including the adjoining semi-detached house and adjacent row of terraced houses (comprising 1-9 Crosland Road). Environmental Services have only witnessed an issue at 11 Crosland Road and no other properties have been found to be affected by noise disturbance and as such similar upgrades to other properties would not meet the test of necessity.
- 10.27 It is likely that 11 Crosland Road would experience the greatest noise disturbance because it is furthest from the background noise of New Hey Road and closest to the site access where vehicles are turning in and out near the brow of the hill.
- 10.28 Consideration has been given to routing traffic via an alternative direction during night-time hours (i.e. approaching the site from the north) as a way to avoid HGVs accelerating up Crosland Road when background noise levels are at their lowest. This has however been discounted because it would mean taking HGVs past a significantly greater number of dwellings which could exacerbate the overall impact of the development. Highways Development Management have also commented that accessing the site via New Hey

Road represents the most suitable route for traffic because New Hey Road serves as a main distributor road and the site access is very close to it.

- 10.29 Imposing hours of use restrictions on The Pink Link operation as a means of controlling noise is not realistic because the nature of the business is such that it relies on the ability to operate 24 hours a day and it would become unviable if night time activities were restricted.
- 10.30 Taking into account the proposed noise mitigation measures and considering that the application site has a long-established and unrestricted general industrial use whereby some degree of noise is to be expected and the fact that noise will arise from any vehicle travelling along a public highway at any time of the day or night, on balance officers are of the opinion that the harm arising from the development would not be so detrimental so as to justify a refusal of the application on noise grounds.
- 10.31 In addition it is considered that the proposal would not have any material impact on the air quality within the vicinity of the site given that there is a long-established general industrial use of the site.
- 10.32 On balance the application is considered to satisfy Policies BE1, D2, EP4 and EP6 of the UDP and guidance in the NPPF.

Highway issues

- 10.33 The site forms part of an established industrial property which has been subdivided into two separate businesses which each benefit from separate points of access off Crosland Road. There are other commercial uses surrounding the site including a site to the south west which also has its own access off Crosland Road.
- 10.34 Highways Development Management considers that the proposed use would generate more vehicle movements in comparison to the established B2 use, especially from HGVs. The established use does however have the potential to generate unrestricted HGV movements and is likely to generate more parking demand.
- 10.35 Taking into account the size of the application site, in highway impact terms it is considered that the additional vehicle movements can be accommodated within the local highway network. It is also recognised that the site's location provides good connections to the classified road network and the M62.
- 10.36 Highways Development Management is generally satisfied that the site can accommodate the turning requirements of the expected HGV movements and that sufficient space is available for staff parking within the site, although it is acknowledged that there is some on-street parking taking place on Crosland Road. Details of parking and turning within the site have not been submitted with the application and it is considered that such details should therefore be required by condition.

10.37 The application is considered to be acceptable in highway safety terms and satisfies Policy T10 of the UDP.

Representations

10.38 One objection has been received and the main issues raised by the objector have already been addressed within this appraisal.

11.0 Conclusion:

11.1 The operation of the site as a 24 hour distribution business gives rise to a number of impacts that are mainly associated with the comings and goings of HGVs on the highway and the manoeuvring and loading/unloading of wagons within the site. The site nevertheless has an established general industrial use which is unrestricted in terms of the nature of the B2 activities that could take place and the hours any such business could operate. It is considered that noise from activities within the site from the proposed use can be adequately controlled through the submitted night-time noise management plan and disturbance to an objector's property from HGV movements on the highway can be mitigated by upgrading the glazing to road facing bedroom windows at the applicant's expense.

11.2 The vehicle movements generated by the proposal can be accommodated on the local highway network without unduly prejudicing highway safety or efficiency. There is sufficient space available for turning and parking within the site.

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

11.4 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development 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. Development in accordance with the approved plans
2. Development in accordance with the approved night-time noise management plan
3. Details of the layout and surfacing of the car park for visitors and staff to be submitted within 4 weeks of approval and provided within four weeks following approval of the details.
4. Details of a turning area for 16.5 metre long service vehicle to be submitted within 4 weeks of approval and provided within 3 weeks of approval of details.

Background Papers:

Application and history files.

Website link:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2016%2f91900>

Certificate of Ownership – Certificate A signed.