
Report of the Head of Strategic Investment**HEAVY WOOLLEN PLANNING SUB-COMMITTEE****Date: 25-Jan-2018****Subject: Planning Application 2017/93222 Installation of a sugar silo and associated concrete base Tangerine Confectionery Limited, Westgate, Cleckheaton, BD19 5EB****APPLICANT**

Rob Overton

DATE VALID

16-Oct-2017

TARGET DATE

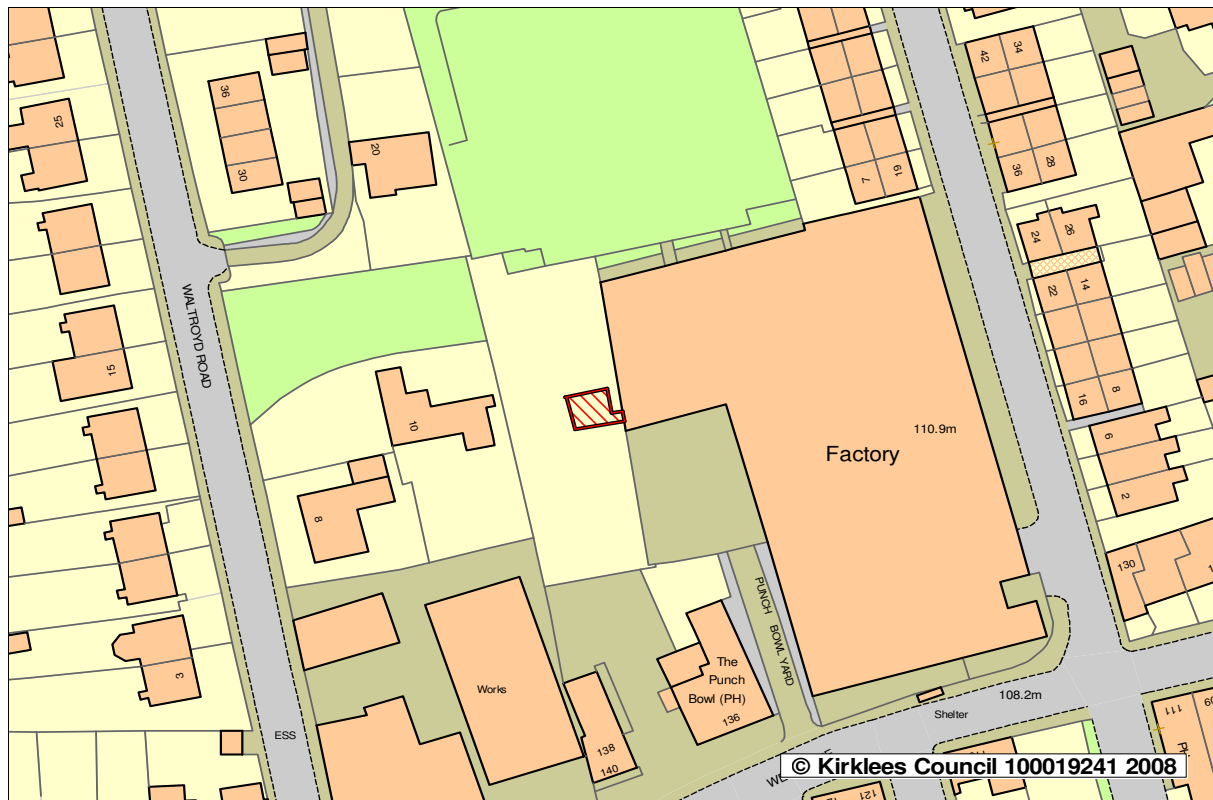
11-Dec-2017

EXTENSION EXPIRY DATE

10-Jan-2018

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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

Electoral Wards Affected: **Cleckheaton**

☐ Yes

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 This application is brought to the Heavy Woollen Planning Sub-Committee at the request of Ward Councillor John Lawson for the following reason:- *“I’d like the decision, if you are minded to approve, to be decided by committee as there are significant changes in location from the previous, lapsed, application”. Councillor Lawson further states “the new siting of the silo in the current application brings it closer to and more in line with the closest residential property. There is a risk that visual and residential amenity could be detrimentally affected and that noise issues could be exacerbated”.*
- 1.2 The Chair of the Sub-Committee has confirmed that Cllr Lawson’s reason for making this request is valid having regard to the Councillor’s protocol for planning committees.

2.0 SITE AND SURROUNDINGS:

- 2.1 Tangerine Confectionery Limited, Westgate, Cleckheaton is an established factory building, approximately 3-storeys high with a combination of natural stone walls to the main frontages and red brick elsewhere. The site boundary includes a compound / yard in front of a loading bay to the western side of the building and a small enclosed open area to the side containing mature trees and undergrowth.
- 2.2 The site is located at the junction of Westgate and South Parade, on land that slopes gently from north to the south across the area. The site is also located close to the centre of Cleckheaton.
- 2.3 To the north of the site is a bowling green with residential properties beyond. To the south there are a mixture of residential houses and business premises. To the east are more houses and to the west there are a combination of works and residential accommodation.

3.0 PROPOSAL:

- 3.1 Planning permission is sought for the erection of a sugar silo with associated concrete base.
- 3.2 The submitted plans and elevation drawings show a silo tower 13.5m high with a 3.5m diameter on an octagonal concrete plinth 5.3m across. It would be located on land to the western side of the factory and adjacent to the building (approximately 20m from the northern boundary of the site).
- 3.3 The silo surface would have a non-reflective metal surface (colour silver). This is a modified scheme to the previous 2013/92407 permission, and would re-site the silo further south.
- 3.4 The Design and Access Statement states that sugar deliveries are currently made from South Parade, a public road. 'The new silo will be within the existing site boundaries and access will be from the factory's yard entrance off Westgate which will allow HGV's to be off the public highway entirely'.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2013/92407 – erection of sugar silo with associated concrete base – Granted
2014/90444 – erection of external chimney flue – Granted
2015/92878 – non-material amendment to 2013/92407 – Invalid
- 4.2 The planning history at the adjacent site, no.10 Waltroyd Road, Cleckheaton, is also considered to be relevant:-

2014/93604 – Demolition of existing dwelling and erection of 4 dwellings - Withdrawn

2011/91741 – Extension to time limit to previous permission 2008/92413 for outline application for erection of residential development and formation of new access - Granted

2008/92413 – Demolition of existing dwelling and outline application for residential development and formation of new access - Granted

2007/92760 – Demolition of existing dwelling and outline application for residential development – Refused (Appeal dismissed)

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

- 5.1 None although clarification has been sought over discrepancies between the Design & Access Statement and the submitted plans. Corrected plans were submitted by the agent.

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 Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the Nation Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not carry from those within the UDP, do not attract significant unresolved objections and are consistent with the Nation Planning Policy Frameworks (2012), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant 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 UDP proposals map and indicated as an accepted housing allocation on the PDLP.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 **D2** – Unallocated land
BE1 – Design principles
BE2 – Quality of design
B5 – Alterations & extension to business premises
G6 – Contamination or instability of land
EP4 – noise sensitive development
NE9 – Retention of mature trees

Kirklees Publication Draft Local Plan (PDLP):

- 6.3 **PLP 8** - Safeguarding employment premises
PLP 24 – Design
PLP33 - Trees
PLP 52 – Protection and improvement of environmental quality

National Planning Policy Framework (NPPF):

- 6.4 **Chapter 1** – Building a strong, competitive economy
Chapter 7 – Requiring good design
Chapter 11 – Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 As a result of the publicity, three representations have been received from two interested parties. The concerns raised are summarised as follows:-
- The silo will be directly outside the kitchen/dining room window of the neighbouring 10 Waltroyd Road.
 - Proposal does not meet the criteria of policy BE12.

- The visual impact would be totally unacceptable on the adjacent property.
- Potential to increase noise levels and exhaust pollution 24 hours a day.
- The application form states that no trees will be affected but the Design & Access Statement says that some trees will be taken out.
- There is also a contradiction in terms of the height of the silo with both 10.0m and 13.5m mentioned.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

K.C. Highways Development Management – No objection

K.C Environmental Health – Support the proposal subject to conditions relating to noise.

The Coal Authority – support the scheme subject to conditions.

8.2 Non-statutory:

None

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 The site is unallocated within the UDP proposals map. As such, development can be supported providing the proposal does not prejudice the avoidance of overdevelopment, highway safety, residential amenity, visual amenity, and the character of the surrounding area, in line with the aims of policy D2 of the UDP (specific policy for development on unallocated land).
- 10.2 In addition, Policies BE1, BE2, B5 and G6 of the UDP are applicable. Policies BE1 and BE2 of the UDP seek to ensure that all development is of good quality design, creating and retaining a sense of local identity, is visually attractive, promotes a healthy environment and is energy efficient.
- 10.3 Policy B5 of the UDP relates specifically to extending business premises and stipulates that: "Proposals for the extension of business premises will be permitted provided the amenity of the occupiers of neighbouring properties, visual amenity and highway safety are safeguarded".

- 10.4 Finally, Policy G6 states that development proposals will be considered having regard to available information on the contamination or instability of the land concerned, and Policy EP4 seeks to safeguard existing noise sensitive development from proposed noise generating development.
- 10.5 In terms of the NPPF, in chapter 7, the Government states that it attaches great importance to the design of the built environment,...and good design should contribute positively to making places better for people.
- 10.6 Chapter 11 of the NPPF requires that the applicant demonstrates to the satisfaction of the Local Planning Authority that the application site is safe, stable and suitable for development. It continues in paragraph 123 to state that decisions should aim to mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions. However, it also recognises that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land use since they were established.
- 10.7 Consideration needs to be given to the proposal and how it complies with the relevant draft policies which would be Policy PLP 8, which seeks to safeguard employment premises, Policy PLP 24 which places emphasis on good design, and Policy PLP 52 which seeks to ensure protection and improvement of environmental quality.
- 10.8 Subject to compliance with the above, the proposal is, in principle, considered to be acceptable.

Visual Amenity

- 10.9 Permission was granted for a sugar silo and its associated concrete base in 2013 under application reference 2013/92407. This application seeks to reposition the silo 7m to the south of the originally approved permission. The originally approved silo had a height of 13.5m (inclusive of the railing) and a diameter of 3.5m. The repositioned silo would occupy a lower position as the site is sloping up to the north.
- 10.10 The silo would be located in a moderately sized parcel of land to the western side of the factory which currently has a belt of mature trees along its western boundary. The position of the proposed silo would be adjacent to the western elevation of the factory. The new position would reduce the height above the ridge of the factory and as such would have less impact on the skyline and streetscape than the previous approval.
- 10.11 The external surface is proposed to be non-reflective and would be grey in colour which would blend with the colour of the factory roof. As such, the silo is not considered to result in a feature which would be out of place with the factory context of the site.
- 10.12 In all, the proposed sugar silo is considered to be compliant with the aims of Policies D2, BE1, BE2 and B5 of the UDP, Policies PLP8 and PLP24 of the PDLP, and guidance given in the NPPF.

Residential Amenity

- 10.13 The proposals have the potential to impact upon the amenities of two of the neighbouring properties. The impact will be assessed by property below.
- 10.14 The proposal is approximately 13m away from the boundary with the adjacent dwelling at 10, Waltroyd Road, and orientated to the east. The boundary is formed by a stone wall, between approximately 1.0m and 2.5m high, with wooden fencing above the lower sections, increasing the height to around 2.0m. 10, Waltroyd Road is a bungalow which has been enlarged, including a conservatory to the front. The side elevation is set in from the boundary around 1.5m and has habitable room windows facing towards the east onto the existing boundary and tall, mature trees immediately behind. These provide a dense screen.
- 10.15 There has been concern raised in one of the representations that the silo would be clearly seen from the side windows of no.10, Waltroyd Road and that it would block daylight, making the living accommodation more uncomfortable. In response, it is considered that the existing fence and belt of trees already overshadow this neighbouring dwelling. The proposed silo would be partially screened by the trees and boundary wall/fencing. The trees have been assessed for their amenity value and were found to be unsuitable for a Tree Preservation Order, however it appears that the base of the silo would be outside the crown spread of these trees and so the impact of the development on them would be reduced. It is appreciated that the position of the silo has been amended since the previous approval and would now be located directly opposite their kitchen window. In these circumstances it is considered that there would be limited overshadowing or overbearing impact given the separation distance of 13m.
- 10.16 In terms of noise pollution, the application has been assessed by an Environmental Health officer who has been in contact with the agent to discuss some initial concerns relating to noise. The resultant formal consultation response includes a suggested condition relating to hours of use which is considered to mitigate concerns relating to noise.
- 10.17 The proposed silo would be approximately 30m from the boundary and orientated to the south east. The nearest elevation of 20, Waltroyd Road would be set back a further 10m. In between are some garden shrubs and tall, mature trees which provide substantial screening. In these circumstances it is considered that the proposal would again have limited impact in terms of being overshadowing / overbearing.
- 10.18 In all, with the inclusion of the suggested conditions, the proposed sugar silo is considered to be satisfactory from a residential amenity perspective and compliant with Policies D2, EP4, and B5 of the UDP, Policies PLP24 and PLP52 of the PDL, and chapter 11 of the NPPF.

Highway issues

- 10.19 The proposals seek to alter the existing delivery arrangements for sugar tankers. Access is currently taken off South Parade. With the provision of the proposed sugar silo, the capacity would increase and therefore fewer deliveries would be required. In addition, access would now be taken from the yard area off Westgate, where the existing footway is wide enough to accommodate adequate visibility. In addition, delivery vehicles would no longer need to park along South Parade. Taking the above into account, the proposals are considered to result in a benefit to highway safety and efficiency, complying with Policies D2 and T10 of the UDP, as well as Policy PLP21 of the PDL.

Representations

- 10.20 Three representations have been received from two interested parties. The concerns raised are summarised and addressed by officers below:-

- The silo will be directly outside the kitchen/dining room window of the neighbouring 10 Waltroyd Road.
Officer response: *The siting of the silo has been amended since the previous approval and would now have a more direct relationship upon the amenities of the occupiers of the neighbour 10 Waltroyd Road. However, the 13m separation is considered sufficient, by officers, to mitigate any significant undue impact upon their amenities.*
- Proposal does not meet the criteria of policy BE12.
Officer response: *Policy BE12 is specific to new dwellings and does not apply to the assessment of this proposal.*
- The visual impact would be totally unacceptable on the adjacent property.
Officer response: *Visual amenity is a material consideration. In this instance, the site does form part of a working manufacturing site and the silo would not appear out of place in this context.*
- Potential to increase noise levels and exhaust pollution 24 hours a day.
Officer response: *This is a material consideration and the proposals have been examined by the Council's Environmental Health team. A condition has been recommended in relation to the hours of use in order to safeguard the residential amenity of surrounding occupants.*
- The application form states that no trees will be affected, but the Design & Access Statement states that some trees will be taken out.
Officer response: *The trees along the western boundary of the application site were assessed for their amenity value as part of the previous application and it was considered that they were of insufficient value to warrant protection via a Tree Preservation Order (TPO). The location of the proposed silo would be outside the crown spread of the mature trees and so the proposal would have limited impact upon them. The proposal is therefore considered to comply with the aims of Policy NE9 of the UDP and Policy PLP33 of the PDL.*

- There is also a contradiction in terms of the height of the silo with both 10.0m and 13.5m mentioned.

Officer response: *The concerns relating to the contradiction between the plans and the Design and Access Statement have been addressed through the submission of amended details during the course of the application. Officers are satisfied that all information corresponds.*

Other Matters

- 10.21 *Coal Mining Legacy:-* The application site is located within an area of High Risk in relation to coal mining legacy. Due to the nature of the proposals, a Coal Mining Risk Assessment (CMRA) prepared by RCA Construction accompanied the planning application and consultation was subsequently carried out with the Coal Authority.
- 10.22 It is acknowledged by the Coal Authority as part of their consultation response that the proposal for the installation of the silo on a concrete base and in terms of the overall scale of the development would require minimal grounds works. The Coal Authority however support the proposal set out in the submitted CMRA to carry out investigations into the ground conditions in order to inform any remedial measures that may be required. A condition is therefore recommended to secure the above and would ensure that the proposal complies with the aims of chapter 11 of the NPPF.
- 10.23 There are no other matters considered relevant to the determination of this application.

11.0 CONCLUSION

- 11.1 This application for the erection of a sugar silo at the existing established manufacturing premise has been assessed against relevant policies in the development plan as listed in the policy section of the report, the National Planning Policy Framework and other material considerations. It is considered by officers that the benefits of providing the silo provision in terms of the economic viability of the existing business, along with the improvements to highway safety (in terms of the need for reducing numbers of deliveries along with the improvement to the point of access for deliveries), is considered to outweigh the impact upon residential amenity. In addition, in regard to visual amenity considerations, the proposed silo, whilst being relatively high, would be seen against the backdrop of the existing industrial premises and thus, would appear not out of keeping in this context.
- 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. This application has been assessed against relevant policies in the development plan and other material considerations.

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

1. Standard time frame for the implementation of development (3 years).
2. Development to be carried out in accordance with the submitted plans and information.
3. Submission of a programme of intrusive site investigation works to be undertaken to confirm shallow coal mining conditions.
4. No sugar to be loaded into the Silo outside the times of 08:00 and 20:00 Monday to Sunday.

Background Papers:

Application and history files

Web link to the application details:-

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f93222>

Certificate of Ownership – Certificate A signed and dated 12/09/2017.

Web link to the previous application reference 2013/94207:-

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2013%2f92407>+