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**Report of the Head of Strategic Investment**

**HEAVY WOOLLEN PLANNING SUB-COMMITTEE**

**Date: 15-Mar-2018**

**Subject: Planning Application 2017/93674 Erection of class A1/A3 coffee shop with external seating area Land at, Northgate Retail Park, Albion Street, Heckmondwike, WF16 9RL**

**APPLICANT**

London & Cambridge  
Properties Ltd

**DATE VALID**

24-Oct-2017

**TARGET DATE**

19-Dec-2017

**EXTENSION EXPIRY DATE**

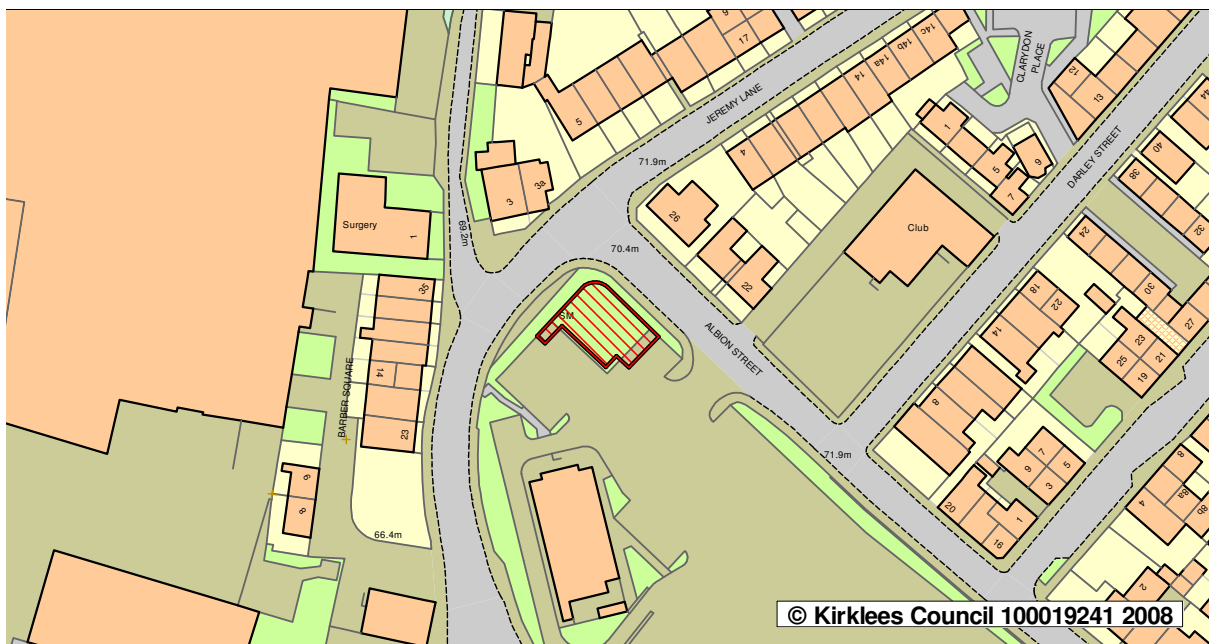
29-Jan-2018

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

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

**LOCATION PLAN**



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

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**Electoral Wards Affected: Heckmondwike**

No

Ward Members consulted  
(referred to in report)

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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:**

- await the expiration of the additional site publicity
- Assess additional highways statement which will be reported in the Committee update.

**Provided that there are no new material considerations raised as a result of the publicity or highways assessment, complete the list of conditions including those contained within the report.**

**1.0 INTRODUCTION:**

- 1.1 The application was originally brought to the Heavy Woollen Planning Sub-Committee in accordance with the Council's scheme of delegation at the request of Ward Councillor Steve Hall for the following reasons:
- 1.2 "While I welcome the application having a big name like Costa coffee coming to Heckmondwike is good news I am concerned about traffic. The junction of Albion Street and Jeremy Lane regularly comes to a standstill due to the entrance / exit into the retail park. What would work is one road in and another road out but I am doubtful of that happening. I would like this application to go to Committee and also have a site visit due to traffic concerns on the highway and the entrance/ exit."
- 1.3 The Chair of the Sub-Committee has previously confirmed that Councillor Steve Hall's reason for making the above request is valid having regard to the Councillor's Protocol for Planning Committees.
- 1.4 The application was subsequently considered by members of the Heavy Woollen Planning Sub-Committee on 25<sup>th</sup> January 2018 following their site visit, which was carried out on the same date.
- 1.5 Members resolved to defer the application in order to provide the applicant with an opportunity to submit additional information relating to highway safety issues, distances to neighbouring properties and to demonstrate how they are to mitigate against any invasion of privacy.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site relates to a roughly rectangular grassed area of land in the northern corner of Northgate Retail Park, Heckmondwike. The retail park is within the town centre of Heckmondwike and consists of ten modern retail units including a drive through restaurant and Lidl supermarket, with large shared car park.
- 2.2 The site is relatively flat and approximately 191 square metres. It also contains a signage post which would be removed.
- 2.3 Access is from the existing entrance / exit to Northgate Retail Park.
- 2.4 On the opposite side of Albion Street, Jeremy Lane and Greenside are predominantly two-storey, stone built houses, whilst the remainder of the site is adjacent to much larger car park serving the retail park.

## **3.0 PROPOSAL:**

- 3.1 Planning permission is sought for the erection of class A1/A3 coffee shop with external seating area.
- 3.2 The building would have a predominantly rectangular footprint with one curved corner in glazing panels. It would be single storey designed with a flat roof and facing masonry to match existing retail units and the immediate context. There would be a detached bin storage area to the south west side of the building occupying one car parking space, and an area of hard standing adjacent to the south eastern side, suitable for outdoor eating. The south eastern side also contains the main entrance to the proposed A1 / A3 coffee shop.
- 3.3 New signage is also indicated on the north eastern and south western elevations (which would be subject to a separate advertisement consent application).

## **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

- 4.1 99/92275 – Erection of food retail and non food retail units with fast food unit and car parking. Conditional full permission.
- 00/93673 – Outline application for the erection of buildings with A1 (food and retail) and A3 (Restaurant /take away) use. Conditional outline permission.
- 01/93103 – Erection of building for A3 use (Restaurant / takeaway). Refused because the proposed parking arrangements would require vehicles to either reverse into or out of the spaces directly onto the main access to the car park, very close to the junction with Albion Street to the detriment to the free and safe flow of traffic.

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

- 5.1 The scheme under consideration at the previous committee meeting had been amended, in that the Design and Access Statement was amended to remove reference to drive-through customer hatch and also set out that service deliveries and refuse collection would take place outside of operational hours.

- 5.2 In addition, the ground floor and elevation drawings together with artist's impressions and roof plan were also amended to show additional bin storage area (dwg nos. P006 rev A 12<sup>th</sup> Jan 2018, P008 rev A 12<sup>th</sup> Jan 2018, P009 rev A 12<sup>th</sup> Jan 2018, and P007 rev A 12<sup>th</sup> Jan 2018). Furthermore, the red line boundary of the site enlarged slightly to encompass the bin storage area (shown on dwgs. P001 rev A 12 Jan 2018 and B P004 rev A 12th Jan 2018). The amended plans were re-advertised and the recommendation worded to reflect the amended plan publicity end date.
- 5.3 Some additional traffic generation information was received and reported in the committee update. It gave information about total traffic generation from the proposed coffee shop, linked trips, and additional traffic generated by the proposed coffee shop. Highways development management officers assessed it and found it acceptable and had no further comments.
- 5.4 Since the application was deferred at the previous committee, further information has been submitted in the form of a block plan showing the distances to the neighbouring properties at Jermyn House, 3, Jeremy Lane, and 26, Albion Street, (which the agent has advised were measured on site), together with two site section drawings, one between 26, Albion Street and the proposed retail unit, and the other between Jermyn House, 3, Jeremy Lane and the proposed coffee shop.
- 5.5 Details of screening measures from the curved window to the neighbouring properties to prevent invasion of privacy issues are shown on the amended elevation drawing P008 rev B indicating the use of obscure glazing between 500mm – 1800mm. It is recommended that this is controlled by condition.
- 5.6 Details from the applicant's Highway specialists relating to the following are awaited. Carrying out a 7 day survey on the vehicle queuing movements from the existing Mcdonald's drive-thru entrance into the car park (vehicle numbers queuing) between the hours of 12.00 to 14.00 and 16.00 to 18.00. (survey not to be carried out during school hols). If the findings of the survey suggest there is an existing issue remedial measures have been requested to be suggested.

## **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 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. 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.

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

- 6.2 **D2** – land without notation on the UDP
- BE1** – Design principles
- BE2** – Quality of design
- BE16** – Shop fronts
- BE20** – Access for disabled people
- S1** – Shopping and Service Strategy
- T10** – Highway safety
- T19** – Parking standards
- EP4** – Noise sensitive development

## Kirklees Publication Draft Local Plan (PDLP):

- 6.3 **PLP1** – Presumption in favour of development
- PLP2** – Place shaping
- PLP7** – Efficient use of land and buildings
- PLP13** – Town centre uses
- PLP16** – Food and drink uses and the evening economy
- PLP21** – Highway safety and access
- PLP22** – Parking
- PLP24** – Design
- PLP25** – Advertisement and shop fronts
- PLP51** – Protection and improvement of environmental quality

## National Planning Policy Framework (NPPF):

- 6.4 Core Principles
- Chapter 2** – Ensuring the vitality of town centres
- Chapter 4** – Promoting sustainable transport
- 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 original publicity, no representations have been received by any surrounding occupants.
- 7.2 Ward Councillor Steve Hall has requested that the planning application be referred to the Heavy Woollen Planning Sub-Committee for determination for the reasons set out in paragraph 1.2 of this report (above).
- 7.3 Following receipt of amended plans, a further round of publicity has been undertaken with the expiration date being 23<sup>rd</sup> January 2018. Should any comments be received, they shall be reported to members in the Update. Furthermore, the recommendation has been worded to reflect the additional publicity.

## 8.0 CONSULTATION RESPONSES:

### 8.1 Statutory:

**K C Highways (Development Management)** – Following receipt of additional information the application is considered acceptable from a highway safety point of view. Further information relating to traffic movements has been requested to support the application and will be reported to members in the update.

**K C Environmental Health** – Have concerns about night time deliveries having an adverse impact upon amenity of neighbouring properties. Recommend the imposition of conditions relating to hours of use and delivery times

### 8.2 Non-statutory:

None

## 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 comprises a roughly rectangular area which is turfed and located in the northern corner of car park serving Northgate Retail Park.
- 10.2 The proposal is to erect a Class A1 / A3 coffee shop with external seating area.
- 10.3 The land is without notation on the Unitary Development Plan and policy D2 is relevant. It states that “planning permission for the development ... of land and buildings without specific notation on the proposals map, and not subject to specific policies in the plan, will be granted provided that the proposals do not prejudice [a specific set of considerations]”.
- 10.4 The development is also within an existing retail park on the edge of Heckmondwike Town Centre on the UDP and on the Kirklees Draft Local Plan it is now within the town centre boundary. Given these circumstances it is considered that policy S1 of the UDP is also relevant, which seeks to ensure that town centres remain the focus of shopping and social activities. As such, it is considered that the proposal would be compliant with the aims of policy S1 of the UDP.
- 10.5 Chapter 2 of the NPPF also seeks to ensure the vitality of town centres. Given the policy context outlined above and that the proposal is suitable for a town centre use, it is considered that the proposal would be compliant with the aims of chapter 2 of the NPPF.

- 10.6 Overall, it is considered that the principle of a coffee shop in this location is acceptable, subject to compliance with detailed policies relating to visual and residential amenity, and highway safety.

#### Urban Design issues

- 10.7 The site is in the northern corner of Northgate Retail Park, with the existing car park and retail units to the south, and more of Heckmondwike town centre beyond. The site is also in quite a prominent position adjacent to the junction of Albion Street, Jeremy Lane and Greenside, from where it is clearly visible. These roads are lined with two-storey, stone-built and predominantly terraced houses thought to date from the Victorian and Edwardian era. Beyond the immediate area is more housing to the north and east, and a mill complex to the north-west.
- 10.8 The existing retail park contains relatively modern purpose-built retail units which are single storey and constructed with a mixture of materials including natural stone and modern, smooth roof sheets.
- 10.9 The proposed building would also be single storey and smaller than those already at the retail park. It would have a flat roof and a curved corner with floor to ceiling windows forming a feature when viewed from the road junction.
- 10.10 Whilst the proposed elevations indicate that the external walls would be to match the existing shopping centre and immediate context, given its prominent position and closer proximity to natural stone houses, it is considered appropriate to use natural stone walling materials.
- 10.11 It is noted that advertisements are shown on the proposed elevation drawings however these would be subject to separate advertisement consent.
- 10.12 It is acknowledged that when the application was under consideration at the previous committee, an amended plan was submitted which incorporated a detached bin storage area adjacent to the south western frontage. This is a visible elevation however, the storage area has been designed with a perimeter wall which would be faced in matching material to that used on the main building and would, in the opinion of officers, adequately screen the bin storage area.
- 10.13 Details of obscure glazing to the curved window of the proposed building to mitigate an invasion of privacy to neighbouring properties have been submitted and shown on proposed elevation drawing P008 rev B. It indicates the use of obscure glazing between 500mm – 1800mm. In officers' opinion this is satisfactory from a visual amenity point of view and it is recommended that this is controlled by condition.
- 10.14 With the inclusion of appropriate conditions, all aspects of the design are considered acceptable within the context of the surrounding development and as such the visual amenity of the proposal would be in accordance with Policies D2, BE1, BE2 and BE16 of the UDP, Policy PLP24 of the PLDP, as well as chapter 7 of the NPPF.

## Residential Amenity

- 10.15 When the application was previously being considered by Committee Members, they resolved to defer the decision in order to (amongst other things) obtain accurate measurement of the distance between the proposed coffee shop and the nearest neighbouring properties as a speaker from one of the neighbouring properties reported that distances from boundary walls of neighbouring properties were less than reported in the committee report. These neighbouring properties are Jermyn House, 3, Jeremy Lane and 26, Albion Street.
- 10.16 The agent has supplied an additional information plan (P010- dated 23<sup>rd</sup> February 2018) on which there is a block plan entitled distance to neighbouring properties. It shows distances of 17.8m and 16.4m from the middle of the curved window and a parallel section respectively to the mid-point of the facing front elevation of 26, Albion Street. It also shows distances of 17.6m and 19.7m from the middle of the curved window to the nearest window and mid-point of the front elevation of Jermyn House, 3, Jeremy Lane. In addition it indicates a distance of 18.4m between the mid-point of Jermyn House, 3, Jeremy Lane and the nearest part of the curved window. These distances are similar to those reported at the previous committee of approximately 17m from the proposed coffee shop to the nearest houses on the opposite side of Albion Street and Jeremy Lane. In relation to the speaker's query, distances of less than those given above are possible from the boundary walls of these neighbouring properties as the boundary walls are closer to the proposed coffee shop.
- 10.17 The agent was asked to confirm that these distances were measured on site and said that he was advised that is the case.
- 10.18 Two site sectional drawings showing the proposed coffee shop in relation to 26, Albion Street and Jermyn House, 3, Jeremy Lane, have also been submitted (P010 – dated 23<sup>rd</sup> February 2018). They illustrate that the proposed coffee shop would be subservient, in terms of overall height in relation to these neighbouring properties with significant separation distances.
- 10.19 Given the separation distances to neighbouring properties described above and the subservient scale of the proposed coffee shop relative to the neighbouring properties it is considered that the overbearing and overshadowing effect would be relatively restricted.
- 10.20 In terms of overlooking, details of obscure / frosted glazing for the curved window have been submitted and shown on proposed elevation drawing P008 rev B. It indicates the use of obscure glazing between 500mm – 1800mm. In officers' opinion this provides mitigation to prevent invasion of privacy, and can be conditioned accordingly.
- 10.21 In terms of noise pollution, Environmental Health officers expressed concerns about noise from customers and deliveries at unsocial times that may impact upon the amenities of nearby residents at nos. 22, 24 and 26, Albion Street, Heckmondwike. However if service deliveries take place during operational hours this would mitigate such noise, and they recommend conditions to control the hours of use to customers (to between 06:00 and 23:00), and the



hours for deliveries to or dispatches from the premises (to correspond with the hours of use to customers), in order to comply with the aims of Policy EP4 of the UDP and chapter 11 of the NPPF.

- 10.22 The amended Design and Access Statement (paragraph 4.14) states that the proposed opening hours are between 5:00am and 10:00pm daily and (paragraph 4.16) service deliveries – generally 1 per day – together with refuse collection will take place within the site and outside operational hours.
- 10.23 The submitted parking statement (paragraph 4.1) also states that the proposed coffee shop will be serviced out of hours from the car park by box vans.
- 10.24 Given that the position of the proposed coffee shop is relatively close to residential properties and the relatively long hours of operation proposed, it is considered that there would be potential for an adverse impact upon the residential amenities of these neighbouring properties from noise disturbance and therefore, whilst acknowledging the comments from Environmental Services and those set out in the applicant's supporting information, officers recommend that the hours of operation are conditioned to be between 07:00 and 20:00. As the proposed development is for a relatively small coffee shop and service deliveries would be by box vans, generally one per day, on balance it is considered that it would be reasonable to restrict service deliveries to within the hours of operation (as specified above) and by box vans, a maximum of 2 per day.
- 10.25 Whilst service deliveries during operational hours may have an impact upon the use of the car park by customers, as the proposal is relatively modest in scale, and a box delivery van is quite small, visiting the site infrequently, it is considered that the impact upon highway safety and efficiency would be relatively limited. This approach is supported by Highways Development Management officers.
- 10.26 As such, with the inclusion of the recommended conditions, it is considered by officers that the proposed development will not result in any material detriment to the residential amenities of the occupants of nearby houses, in accordance with Policies D2, BE1, BE2 and EP4 of the UDP as well as chapter 11 of the NPPF.

#### Highway issues

- 10.27 The application site is in the northern corner of Northgate retail park near the entrance from Albion Street and adjacent to a large car park serving the retail complex.
- 10.28 As previously set out, the application was deferred at the planning sub-committee meeting held on 25<sup>th</sup> January 2018 in order for the applicant to (amongst other things) address highway safety concerns. This is in the form of carrying out a 7 day survey on the vehicle queuing movements from the existing Macdonalds drive through entrance into the car park (vehicle numbers queuing) between the hours of 12.00 to 14.00 and 16.00 to 18.00. (survey not to be carried out during school hols). In addition, if the findings of the survey suggest there is an existing issue, remedial measures should be suggested.

- 10.29 The above information in the form of a highways statement is awaited. An assessment will be reported in the Committee update.

### Representations

- 10.30 No representations were received during the original advertisement period for the application. A further round of advertisement of the amended plans took place prior to the previous committee and expired on 23<sup>rd</sup> January 2018. Five letters of representations and one petition with 43 signatures were received and reported in the Committee update.
- 10.31 The issues raised and addressed were related to highway safety, noise nuisance, littering, invasion of privacy to nearest neighbouring properties, blocking views, and other empty buildings in Heckmondwike town centre could be used.
- 10.32 Since deferring the application, some amended plans have been received and further highways information is awaited. When it is received they will be subject to a further round of advertisement.
- 10.33 Cllr S Hall raised concerns about traffic on the highway and the entrance/ exit. Since the application was deferred at the previous committee, details from their highway specialists relating to the following have been requested and are awaited. Carrying out a 7 day survey on the vehicle queuing movements from the existing Macdonalds drive through entrance into the car park (vehicle numbers queuing) between the hours of 12.00 to 14.00 and 16.00 to 18.00. (survey not to be carried out during school hols).  
If the findings of the survey suggest there is an existing issue, then remedial measures should be suggested.
- 10.34 The above information in the form of a transport statement is awaited. An assessment of it will be provided in the committee update.

### Other Matters

#### *Access for disabled people:*

- 10.34 Policy BE20 of the UDP seeks to ensure new shop fronts should incorporate provision for access to the premises via the main entrance for people with disabilities.
- 10.35 In this instance, the main entrance to the proposed building would be on the east facing elevation of the proposed building which is directly accessible from the associated car park where there is disabled parking nearby. There would also be level access at the entrance and facilities for people with disabilities inside. As such the proposal would satisfy policy BE20 of the UDP.
- 10.36 There are no other matters considered relevant to the determination of this application.

## 11.0 CONCLUSION

- 11.1 To conclude since the application was deferred at Heavy Woollen Planning Committee on 25<sup>th</sup> January 2018, additional information regarding the distances to neighbouring properties, sectional drawing to neighbouring properties indicating scale of the proposed building relative to neighbouring properties, and mitigation against any invasion of privacy in the form of a deep band of obscure glazing to the curved window have been submitted. These have been carefully assessed and officers are of the opinion that the proposal would not result in any significant detriment to the visual or residential amenities of nearby residential properties or to the wider street-scene.
- 11.2 With regard to highway safety, a Transport Statement is awaited and will be assessed and reported in the Committee update.
- 11.3 Furthermore it is anticipated that the proposal would generate 15 full-time jobs which would comply with the aims of the NPPF which sets out under paragraph 18 that *'the Government is committed to securing economic growth in order to create jobs and prosperity...'*
- 11.4 Subject to the provision of satisfactory additional highways information and no new material planning consideration are raised as a result of a further round of publicity, approval of the application is recommended.
- 11.5 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.
- 11.6 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. 3 year time limit
2. Development to be carried out in accordance with the approved plans
3. Materials
4. Limit to hours of operation to between 07:00 and 20:00
5. Use of box delivery van and frequency of delivery / collection
6. Details of obscure glazing to prevent over looking

### Background Papers:

Application and history files

Website link to application:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f93674>

Certificate of Ownership – Certificate A signed and dated 20/10/2017.