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**Report of the Head of Strategic Investment****STRATEGIC PLANNING COMMITTEE****Date: 05-Apr-2018****Subject: Planning Application 2018/90242 Change of use from stone yard to tree/log storage yard The Old Stone Yard, Near Bank, Shelley, Huddersfield, HD8 8LS****APPLICANT**Martin Locke, Beneficial  
Tree Care Ltd**DATE VALID**

23-Jan-2018

**TARGET DATE**

20-Mar-2018

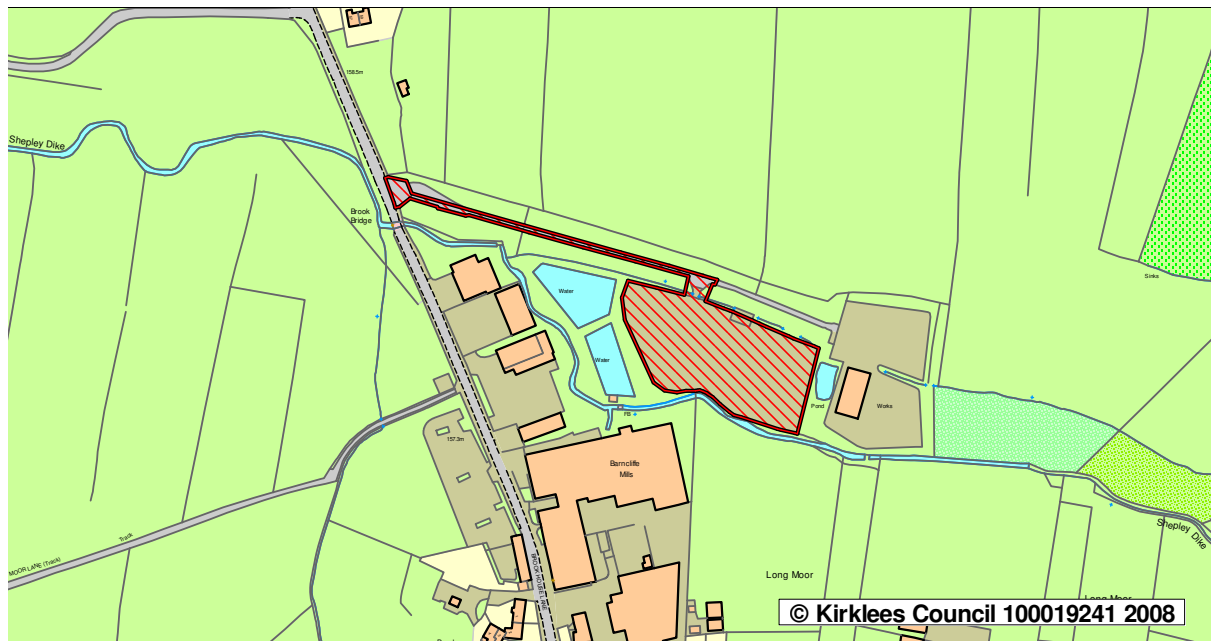
**EXTENSION EXPIRY DATE**

13-Apr-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:** Kirkburton Ward

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 complete the list of conditions including those contained within this report.

### **1.0 INTRODUCTION:**

- 1.1 The application seeks permission to change the use of a stone yard to a tree/log storage yard in connection with an existing arboricultural depot, construct a concrete base 14m x 17.5m with a covered log store area measuring 5 x 17.5 metres with a maximum height of 4 metres and erect a 1.8m high, green powder coated palisade fence around the boundary. Beneficial Tree Care Ltd are the applicants and are an existing business at Shelley. The application is brought to Strategic Planning Committee for a decision as the site area exceeds 0.5 hectares. The application was deferred from the 8<sup>th</sup> March Strategic Planning Committee due to adverse weather conditions.

### **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site comprises an external storage yard of a stone merchants business located off Near Bank at Shelley. The site is relatively flat and comprises areas of outdoor storage with a number of skips /metal storage containers. The site is accessed off Near Bank by a single width track which is shared with the existing arboricultural depot business.
- 2.2 To the north, the site borders adjacent undeveloped green belt land, to the east of the site is the existing arboricultural depot business, to the south is Barncliffe Mills beyond which is further open undeveloped land and to the east are two ponds, beyond which are industrial buildings. Public right of way KIR/147/10 follows a route across the north-western part of the existing yard.

### **3.0 PROPOSAL:**

- 3.1 The application seeks permission for the change of use of the existing stone cutting and storage yard to a tree/log storage yard, in connection with the existing arboricultural depot to the east of the site; Beneficial Tree Care Ltd. The proposal also includes the following elements which are classed as operational developments:
- construct a concrete base (dimensions 14mx 17.5m)

- construct a covered log store partly on this base (dimensions 5m x 17.5m with a maximum height of 4 metres) The structure incorporates a simple frame and mono pitch roof, with open sides on the eastern and western elevations and timber boarding to the shorter northern and southern elevations.
- erect a 1.8m high, green powder coated palisade fence around the boundary

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

4.1 95/90693 – Use of existing hard standing for storage of coursed stone with associated use to adjacent building – Conditional Full Permission

4.2 Adjacent land to the east:

2001/93336 – Erection of stone cutting industrial unit and settlement pit – Conditional Full Permission

2011/90466 – Change of use of part of stone yard to arboricultural depot – Conditional Full permission

2015/93091 – Erection of two single storey storage/workshop units – Conditional full permission

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

5.1 Officers negotiated with the applicant to provide:

- Details of how the proposal would impact on the Public Right of Way.
- Details of the proposed log store

#### **6.0 PLANNING POLICY:**

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25<sup>th</sup> April 2017, so that it can be examined by an independent inspector. The 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.

6.2 The site is allocated as green belt on the UDP proposals map.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 **BE1** – Design principles  
**BE2** – Quality of design  
**T10** – Highway Safety  
**T16** – Pedestrians Safety  
**NE9** – Retention of mature trees  
**G6** – Contaminated Land  
**EP11** – Integral landscaping scheme to protect / enhance ecology  
**EP4** – Noise Sensitive Uses

6.3 Kirklees Publication Draft Local Plan

- PLP1** – Presumption in favour of sustainable development  
**PLP21** – Highway safety and parking  
**PLP 30** – Biodiversity and Geodiversity  
**PLP53** – Contaminated and unstable land

National Planning Policy Framework:

- 6.4 **Chapter 1** – Building a strong, competitive economy  
**Chapter 3** – Supporting a prosperous rural economy  
**Chapter 9** – Protecting Green Belt Land  
**Chapter 10** - Meeting the challenge of climate change, flooding  
**Chapter 11**- Conserving and enhancing the natural environment

**7.0 PUBLIC/LOCAL RESPONSE:**

- 7.1 The application has been advertised by neighbour letter, site notice and press notice with the publicity due to expire 2<sup>nd</sup> March 2018. Any comments received after the agenda has been produced will be included and responded to within the committee update.

To-date, as a result of this publicity one representation has been received in support of the proposal making the following comments:

“I would like to fully support this application. The site area would be put to good business use. Beneficial Tree Care have built an excellent professional reputation and fully deserve to be helped in addressing their business needs by approving this application”.

**Kirkburton Parish Council** – No comment

**8.0 CONSULTATION RESPONSES:**

8.1 **Statutory:**

**K.C Highway Services (including Public Rights of Way comments)** – No objections

**Environment Agency** – Standing Advice applies

8.2 **Non-statutory:**

**Pollution & Noise Control**- No objections subject to condition regarding operational and delivery times.

## **9.0 MAIN ISSUES**

- Principle of development
- Highway Safety
- Residential amenity
- Flood Risk issues
- Ecology Issues
- Representations

## **10.0 APPRAISAL**

### Principle of development

- 10.1 The site is located within the Green Belt where paragraphs 87-90 of the National Planning Policy Framework (NPPF) states how proposals should be assessed. Paragraph 89 states local planning authorities should regard the construction of new buildings as inappropriate in Green Belt. There are exceptions to this and one of which is the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. Paragraph 87 states that inappropriate development, is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 90 of the NPPF states certain forms of development are not inappropriate in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land with the Green Belt. These include engineering operations.
- 10.2 The proposal seeks permission primarily for the use of the existing stone storage yard to store logs, in association with an existing arboricultural depot business; Beneficial Tree Care Ltd on the adjacent site. Some operational development is also proposed but is limited to the construction of a concrete base 14mx 17.5m, a covered log store which would sit on approximately one third of the width of the proposed concrete base and the erection a 1.8m high, green powder coated palisade fence around the boundary. The log store would have dimensions of 5 x 17.5 metres and a maximum height of 4 metres. The structure incorporates a simple frame and roof, with open sides on the eastern and western elevations and timber boarding to the shorter northern and southern elevations. The proposal is located on land that has previously been used as a stone yard and is therefore classed as brownfield land. The laying of a concrete base is classed as engineering works and is allowed under paragraph 89 of the NPPF and therefore not considered to be inappropriate development within the Green Belt. The other elements of erecting boundary fencing and a covered area will have some impact upon the openness of the Green Belt but these elements are minor forms of development, with minimal impacts and are not considered to be demonstrably harmful to the Green Belt or conflict with the purposes of including land within it. The proposed use would support the existing rural business in accordance with the principles of chapter 3 of the NPPF. This states plans should support the sustainable growth and expansion of all types of business and enterprise in rural areas.

- 10.3 The existing site is located in amongst other buildings and existing structures in the vicinity and the site is not considered to be highly visible within the landscape. The storage of logs is by its nature a temporary and fluctuating activity which would not have a detrimental impact on the openness of the Green Belt. The existing tree/hedge screen would remain and would provide an element of screening to the site to preserve the visual amenities of the Green Belt, which could be supplemented by additional planting if necessary by a condition. Overall, the proposed concrete pad, covered store and fence are considered to be acceptable and would not be harmful to the openness of the Green Belt.

#### Highway Safety

- 10.4 Policy T10 of the UDP sets out the matters against which new development will be assessed in terms of highway safety. The site is accessed from an existing private driveway opening on to Brook House Lane, an unclassified 30mph two lane single carriageway with a footway on the side of the proposal site access and street lighting present.
- 10.5 The uses are similar and, even though there are no traffic generation figures submitted Highway Services consider that the development traffic would be comparable in both volume and composition and therefore would have very little impact on the operation of the local highway network.
- 10.6 The access is an existing stone yard access with what appears to be adequate radii and visibility for goods vehicles. There are no recent collisions within the area and no patterns appear to form with historic collisions.
- 10.7 There is a PROW (footpath KIR 147-10) that passes through the site. The effect of development on a public right of way is a material consideration in the determination of applications for planning permission and local planning authorities should ensure that the potential consequences are taken into account whenever such applications are considered. The proposed palisade fencing would cut across its existing route and the applicant has indicated an application to divert the PROW has been lodged with the PROW section and is ongoing. The proposed route for the diversion is shown on the block plan, which is proposed to be to the south of the adjacent pond and to the north of the existing yard. The issue is however that the development may not be deliverable until the PROW diversion has been completed. To address this matter Highway Services and PROW suggest a condition that no development shall commence until a scheme for the diversion of the footpath has been approved and that the existing footpath is not obstructed before such time as the diversion takes place.
- 10.8 Overall, Highways Development Management consider that this application is, in principle acceptable subject to a condition that no part of the development shall commence until the scheme for the diversion of footpath KIR 147-10 has been approved. This is to ensure that the development is deliverable. Subject to the inclusion of this condition there would be no detrimental impact on highway safety and the proposal would accord with Policy T10 of the UDP.

#### Residential Amenity

- 10.9 There are no residential dwellings in immediate proximity of the application site, but there are residential properties off Near Bank to the north and Long Moor

Lane to the south. To assess the possible impact on the residential amenity of the occupiers of these properties from noise disturbance Environmental Services were consulted. In the interests of the amenity of occupiers of neighbouring noise sensitive properties Environmental Services recommend a condition that no activities shall be carried out on the premises, including deliveries to or dispatches from the premises, outside the times of 0800-1800 Monday to Friday and 0800-1600 Saturdays with no activities on Sundays or Bank Holidays. Subject to the inclusion of this condition there would be no detrimental impact on residential amenity.

#### Flood Risk Issues

- 10.10 The NPPF sets out the responsibilities for Local Planning Authorities in determining planning applications, including Flood Risk Assessments, taking climate change into account and the application of the sequential approach. The site lies within flood zone 3, however the proposal is for a development which is classified as less vulnerable. The proposed change of use from an existing stone yard to a storage area for logs would not result in any flood risk issues and the Environment Agency have no specific comments to make.

#### Ecology Issues

- 10.11 UDP Policy EP11 requests that applications for planning permission should incorporate landscaping which protects/enhances the ecology of the site. The site is located within the bat alert layer. The Council's ecologist has no objection to the proposed change of use. However they have raised concern that any artificial lighting could have a significant impact on the function of the adjacent Kirklees Wildlife Habitat Network. Accordingly a condition is suggested that no such lighting be installed.

#### Representations

- 10.12 One representation has been received in support of the proposal as detailed above. Kirkburton Parish Council have made no comments.

### **11.0 CONCLUSION**

- 11.1 The proposed change of use of the existing stone yard to a log storage yard for the adjacent arboricultural depot is considered to be an appropriate use within the Green Belt. It would have no materially greater impact on the openness and visual amenities of the Green Belt than the existing stone storage yard in accordance with Paragraph 90 of the NPPF, and would not conflict with the purposes of including land with the Green Belt. The proposed concrete base structure with a covered area for log storage would not have a detrimental impact on the openness of the Green Belt due to its limited scale and the location of the buildings in amongst existing buildings within the landscape. There would be no adverse impacts on highway safety or residential amenity and there would be no increase in flood risk. Recommendation is 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 in accordance with the approved plans

3. Development not to commence until a scheme for the diversion of footpath KIR 147-10 has been submitted and approved and that the existing footpath is not obstructed before such time as the diversion takes place.
4. Fence to be 1.8m high and powder coated green colour details to be submitted
5. Tree/hedges along the boundaries of the site to be retained
6. Hours of operation - no activities shall be carried out on the premises, including deliveries to or dispatches from the premises, outside the times of 0800-1800 Monday to Friday and 0800-1600 Saturdays. No activities shall take place on Sundays or Bank Holidays.

**NOTE:** Public footpath number KIR 147-10, which crosses/abuts the site appears to be obstructed. Please contact Kirklees Council Public Rights of Way Team.

Public footpath number KIR 147-10 shall not at any time prior to, during or after construction of the proposed development be unofficially obstructed or closed without prior written consent of the Local Planning Authority and the granting of planning permission does not in itself constitute authority for the interference with the right of way or for its closure or diversion. In the event of planning consent being granted, the applicant will still be required to enter in to a separate legal process, with separate costs, in order to divert or close the public footpath.

### **Background Papers:**

Website link:

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f90242>

Certificate of Ownership –Certificate A signed: