

---

**Report of the Head of Planning and Development**

**STRATEGIC PLANNING COMMITTEE**

**Date: 15-Jul-2020**

**Subject: Planning Application 2019/94094 Erection of 2 temporary storage containers and erection of greenhouse and pergola Devour at Woodlands Mill, Luke Lane, Thongsbridge, Holmfirth, HD9 7TB**

**APPLICANT**

Robinson, D & LS  
Developments Ltd

**DATE VALID**

18-Dec-2019

**TARGET DATE**

12-Feb-2020

**EXTENSION EXPIRY DATE**

---

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

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

**LOCATION PLAN**



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

---

**Electoral wards affected: Holme Valley South**

**Ward Councillors consulted: Yes**

**Public or private: Public**

---

**RECOMMENDATION:**

**DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report.**

**1.0 INTRODUCTION:**

- 1.1 The application is brought to committee at the request of Ward Councillor Nigel Patrick who has also request that 2 other live applications 2019/94096 for an extension and 2020/90302 for a variation of condition are also referred to committee at the same time. The reason for the request is set out below:

*“Over intensification of the site, building in the green belt, impact on the flood zone, noise and light nuisance to neighbouring properties, and highways safety issues in relation to inadequate on site parking and insufficient provision for delivery vehicles.”*

- 1.2 The Chair of committee has confirmed that for the above reasons for making the request are valid having regard to the Councillors’ Protocol for Planning Committees.

**2.0 SITE AND SURROUNDINGS:**

- 2.2 The application site forms a parcel of land to the south of the River Holme which is part of a wider site with two buildings, the northern building being used as restaurant, with the southern building mostly empty. A car park to serve the overall site is located to the west. The site is accessed via an existing driveway which sits on a bend in Luke Lane. Public footpath HOL/50/50 runs through part of the wider site, and passes between the southern building, joining Luke Lane close to the site’s vehicular entrance. There are several trees which surround the site, and many are protected by Tree Preservation Orders.
- 2.3 To the east of the application site is Royd Mill, which rises to four storeys (not including its lower ground level car park) and has been converted to residential use. To the south is a public recreation ground, and residential properties beyond. Dense woodland covers much of the land to the north and west of the application site. To the northeast, on the other side of the river, is the Holme Valley Camping and Caravan Park.
- 2.4 The site is within the Green Belt. The nearest listed building is the arched stone bridge to the east of the application site, which carries Luke Lane over New Mill Dike.
- 2.5 Specifically, the site forms a piece of land is to the west of the restaurant located between the River Holme and the access road which serves the car park to the development. The area is bound by a dry stone wall to the south and railings to the north.

### 3.0 PROPOSAL:

- 3.1 The application seeks planning permission for the erection of two temporary storage containers and the erection of greenhouse and pergola. The application has been submitted partly retrospectively as the two storage containers are already on site.
- 3.2 The two storage containers A and B are located to the west of the application site. 'A' is to the north and provides a kitchen and office space and measures 6 metres long by 2.5 metres wide with an overall height of 2.6 metres. 'B' provides toilets and an office and is slightly longer at 7.3 metres but is of the same width and height as 'A'. The submission has set out that the containers are required to provide ancillary facilities to the main restaurant which were not capable of being provided within the building. The structures are constructed from metal with a black finish, glazed doors are located on the eastern elevations.
- 3.3 The proposed greenhouse has maximum external dimensions of 4 metres wide by 6 metres long with a maximum overall height of 3.5 metres. It is constructed from powder coated steel in a grey or black finish with large amounts of glazing. The proposed pergola would be to the east of the greenhouse having a total width of 8.2 metres, depth of 5.2 metres and overall height of 2.3 metres. The pergola would be constructed from timber and would allow plants to grow up various sections of the structure.
- 3.4 In total the greenhouse and pergola and other associated hard landscaping would occupy a total floor space of approximately 160 square metres.

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

#### *Planning Application History*

- 2020/90302 - Variation of conditions 2 (plans) and 15 (opening hours) on previous permission 2018/90876 for the variation of conditions 2 (plans) and 15 (opening hours) on previous permission 2017/91888 for change of use, alterations and extensions to former mill buildings to form mixed use development comprising of food manufacturing, cookery school, cafe, shop, restaurant, cooking demonstration/tasting areas and management offices/suite. Outdoor seating areas, service yard, parking and associated landscaping works – **Decision Pending.**
- 2019/94096 - Erection of extension to former mill building – **Decision Pending**
- 2019/94030 - Discharge of conditions 11 (Ecological Design Strategy), 13 (LEMP), 14 (Lighting Design Strategy), 16 (Ventilation Systems), 17 (External Plant) & 25 (Validation Report) on previous permission 2018/90876 for variation conditions 2 (plans) and 15 (opening times) on previous permission 2017/91888 for change of use, alterations and extensions to former mill buildings to form mixed use development comprising of food manufacturing, cookery school, cafe, shop, restaurant, cooking demonstrations/tasting areas and management office/suite. Outdoor seating areas, service yard, parking and associated landscaping works – **Spilt Decision part Approved Part Refused**

- 2019/93141 - Variation condition 15 (opening hours) on previous permission 2018/90876 for variation conditions 2 (plans) and 15 (opening times) on previous permission 2017/91888 for change of use, alterations and extensions to former mill buildings to form mixed use development comprising of food manufacturing, cookery school, cafe, shop, restaurant, cooking demonstrations/tasting areas and management office/suite. Outdoor seating areas, service yard, parking and associated landscaping works – **Decision Pending.**
- 2018/92629 - Discharge of conditions 3-9, 11-13,19, 22 and 23 on previous application 2018/90876 for variation conditions 2 (plans) and 15 (opening times) on previous permission 2017/91888 for change of use, alterations and extensions to former mill buildings to form mixed use development comprising of food manufacturing, cookery school, cafe, shop, restaurant, cooking demonstrations/tasting areas and management office/suite. Outdoor seating areas, service yard, parking and associated landscaping works – **Withdrawn**
- 2018/90877 - Erection of extension to former mill building – **Approved**
- 2018/90876 - Variation conditions 2 (plans) and 15 (opening times) on previous permission 2017/91888 for change of use, alterations and extensions to former mill buildings to form mixed use development comprising of food manufacturing, cookery school, cafe, shop, restaurant, cooking demonstrations/tasting areas and management office/suite. Outdoor seating areas, service yard, parking and associated landscaping works - **Approved**
- 2018/90205 - Discharge conditions 3, 4, 5, 6, 7, 8, 9, 11, 12, 19, 22 & 23 on previous permission 2017/91888 for change of use, alterations and extensions to former mill buildings to form mixed use development comprising of food manufacturing, cookery school, cafe, shop, restaurant, cooking demonstration/tasting areas and management offices/suite. Outdoor seating areas, service yard, parking and associated landscaping works – **Split Decision part Approved Part Refused**
- 2017/91888 - Change of use, alterations and extensions to former mill buildings to form mixed use development comprising of food manufacturing, cookery school, cafe, shop, restaurant, cooking demonstration/tasting areas and management offices/suite. Outdoor seating areas, service yard, parking and associated landscaping works – **Approved**

#### *Planning Enforcement History*

- COMP/19/0202 – Alleged breaches of planning control – ongoing investigation

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

- 5.1 The agent was approached through the course of the application for additional information in respect to flood risk and lighting. Further information was submitted and has been considered as part of 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 statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

### Kirklees Local Plan (2019):

6.2 The site is within the Green Belt on the Local Plan

- LP1 – Presumption in favour of sustainable development
- LP2 – Place shaping
- LP3 – Location of new development
- LP10 – Supporting the rural economy
- LP13 – Town centre uses
- LP16 – Food and drink uses and the evening economy
- LP21 – Highway safety and access
- LP22 – Parking
- LP24 – Design
- LP27 – Flood risk
- LP30 – Biodiversity and geodiversity
- LP33 – Trees
- LP52 – Protection and improvement of environmental quality
- LP57 – The extension, alteration or replacement of existing buildings (in the green belt)

6.3 National Planning Guidance:

- **Chapter 6** – Building a strong competitive economy
- **Chapter 12** - Achieving well designed places
- **Chapter 13** – Protecting Green Belt land
- **Chapter 14** – Meeting the challenge of climate change, flooding and coastal change
- **Chapter 15** – Conserving and enhancing the natural environment

6.4 Other guidance

- Highways Design Guide SPD

## 7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised by site notice and neighbour notification letter, with an additional letter sent to residents of Royds Mill to clarify the hours of use of the property. The final closing date for publicity is 10 July 2020. In total 8 representations have been received in support.

7.3 A summary of the points made in support of the proposal are:

- Whilst concerns existed in relation to the restaurant before the site was developed these have not been founded now that it has been operational for 18 months.
- During the building phase construction disruption was kept to a minimum.
- The site has been operational for 18 months and it can be confirmed that noise levels from customers coming and going to the site is no greater for residents

of Royds Mill than it was before the construction project. Furthermore there have not been any instances when fumes have been a problem nor can music be heard.

- Luke Lane is a busy road and there has been no noticeable increase in traffic or road noise.
- The development does not create any issues in relation to anti-social behaviour.
- The development has enhanced the area of Luke Lane and the building is in keeping with the surrounding area.
- The business employees local staff and has transformed a derelict mill and out buildings and provided other benefits like its riverside walk and garden.
- The restaurant has provided local residents with a place to eat, drink and socialise.
- The additions and alterations to the site will enhance the offer provided which is fully supported.

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

- **Environment Agency** – after the submission of further information no objection.
- **KC Highways Development Management** – No objection

### **8.2 Non-statutory:**

- **KC Environmental Health** – no objection
- **KC Trees** – No objection

## **9.0 MAIN ISSUES**

- Green Belt and Design
- Flood Risk
- Residential Amenity
- Ecology
- Highway Safety
- Other Matters
- Representations

## **10.0 APPRAISAL**

10.1 The application site is located within the Green Belt, partly within Flood Zones 2 and 3, and is adjacent to a number of protected trees and a wildlife corridor. The principle of the proposed additions therefore needs to be assessed against these key considerations. Other important matters for assessment are the impact of the proposal on highway safety, amenity, design, ecology and all other material planning considerations, including representations received on the application.

### Green Belt and Design

10.2 The site is located within the Green Belt, Chapter 13 of the NPPF is relevant which sets out that *“the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.”*

- 10.3 The proposal seeks the temporary siting of two containers that provide ancillary accommodation to the main restaurant use and the provision of an outside seating area with a greenhouse and pergola. The application is therefore considered to represent an extension to the built form currently provided at the site.
- 10.4 The erection of new buildings within the Green Belt represents inappropriate development unless it falls under one of the categories set out in paragraphs 145 and 146 of the NPPF. In this instance, whilst the greenhouse and pergola are not physically attached to the main building, they are located within close proximity to the main building and are considered to represent an extension of the restaurant space. Therefore, consideration under paragraph 145 is considered appropriate.
- 10.5 Paragraph 145 of the NPPF sets out that the extension or alteration of a building can form an exception to inappropriate development provided that it does not result in disproportionate additions over and above the size of the original building. Policy LP57 of the Local Plan is also relevant which sets out that the original building should remain the dominant element and other previously approved extensions should also be taken into account. Policy LP57 also sets out that the design should be appropriate and the development should not have a greater impact on openness in terms of the treatment of outdoor areas.
- 10.6 The main impact on the Green Belt would be from the Greenhouse and Pergola. The containers are a temporary structure which are easily removal and the applicant is only seeking to retain these for 2 years. The containers are sited within the existing boundaries of the site on an area previously approved for use as outdoor garden space associated with the restaurant use. Therefore, given that the impact from these structures on the Green Belt would be temporary it is not considered necessary to specifically assess the scale of them in relation to the host building. Though it is noted that the cubic volume is relatively small. Subject to a condition ensuring that permission for these structures is limited to 2 years the impact on the Green Belt is considered to be acceptable.
- 10.7 In terms of the scale of the greenhouse and pergola the agent has provided detailed information to set out the scale of the original buildings which stood on the site before construction work commenced and the scale of the additions previously approved and the scale of additions now proposed. The submitted information sets out that previously approved additions combined with the proposed greenhouse and pergola would amount to additions of 691.5 cubic metres or a 38% increase on the original buildings, when the other additions applied for under application 2019/94096 this takes additions to 40%. Such a scale of additions is, on balance, considered to be acceptable in Green Belt terms.
- 10.8 Turning specifically to design, Policy LP24 of the Local Plan is also relevant which sets out that new developments should seek to secure good design by ensuring that they respect and enhance the character of the townscape and protect amenity. This is further supported by Chapter 12 of the NPPF. The design of the structures, which are single storey, lightweight and with no formal sides or roof for the pergola, help to ensure that they are subservient in both in their appearance and also their operation. These factors combined with the scale help to ensure that the proposed development is not considered to represent a disproportionate addition to the original building.

- 10.9 It is noted that the proposed development would also facilitate the provision of outside seating associated with the restaurant use. The use of this area for seating would increase activity in this area, however any tables and chairs would be of a temporary nature and easily removal. It is therefore considered that this use would not be detrimental to the Green Belt.
- 10.10 In conclusion the impact of proposed greenhouse and pergola on the Green Belt is considered to be acceptable and would accord with the requirements of Chapter 13 of the NPPF and Policy LP57 of the Local Plan.

#### Flood Risk

- 10.12 The application site is located within Flood Zones 1, 2 and 3, and is positioned adjacent to the top of the riverbank of the River Holme. A site specific flood risk assessment has been submitted which has been assessed by the Environment Agency (EA) and in relation to Policy LP27 of the Local Plan policies in Chapter 14 of the NPPF.
- 10.13 In terms of flood risk the proposed greenhouse and pergola are associated with the main restaurant use and their position adjacent to the entrance of the main building is considered appropriate. It is considered that there is no other sequentially preferable part of the site to house this use given that the majority is occupied by either built, the associated car park or is in the same or higher flood risk area. The EA have confirmed that they have no objection to the scheme subject to a condition in relation to finished floor levels and an advisory note setting out the potential need for an environmental permit, which is a separate matter dealt with by the EA.
- 10.14 Subject to the condition set out above the proposal is considered to be acceptable in terms of flood risk and would accord with Policy LP27 and the requirements of Chapter 14 of the NPPF.

#### Residential Amenity

- 10.15 The impact of the development on residential amenity needs to be considered against Policy LP24 of the Local Plan advises that proposal should ensure that a high standard of amenity is achieved for future and neighbouring occupiers. Policy LP52 is also relevant which seeks to protect the local environment from issues such as noise pollution. This is also supported by Chapters 12 and 15 of the NPPF. The applicant has submitted a noise impact assessment to support the application which has been assessed.
- 10.16 The closest residential properties to the proposed development are the residential apartments at Royds Mill 50 metres to the east, the end terraced 14 Woodlands Avenue 65 metres to the south and the detached Mytholmbridge House 150 metres to the north. The development therefore achieves good separation to all of these properties and the closest at Royds Mill are in part shielded by the existing restaurant. The use of this area would therefore not cause any adverse overlooking and the proposed buildings would not lead to any overshadowing or overbearing impact to adjacent properties. The illumination of the area into the evening is also not considered to cause any disturbance given the separation distances achieved. The separation distances achieved would also ensure that the use of the temporary storage containers do not have a detrimental impact on residential amenity as well.



- 10.17 The main impact would be from the potential for noise disturbance both from patrons and the playing of music. It is proposed to use the greenhouse, pergola and outside area between 9am to 10.30pm any day of the week and the applicants noise impact assessment has set out noise levels from patrons and the playing of music.
- 10.18 The assessment details that noise levels from patrons would be below prevailing ambient noise levels and therefore inaudible at surrounding residential properties. However, it does acknowledge that there maybe instances when it could be heard if there is a lull in some background noise, such as passing vehicles, though the slight increase in this noise level is not considered to be detrimental. Turning to the playing of music subject to the noise level being restricted, noise from speakers would also be below prevailing ambient noise levels and therefore inaudible at surrounding residential properties. To ensure that music levels are kept to appropriate levels, the recommendations of the report will be conditioned. Furthermore, to ensure that the use is within appropriate hours these will also be conditioned.
- 10.19 Subject to the conditions set out above, the proposal is considered to have an acceptable impact on residential amenity and would accord with the requirements of Policy LP24 and LP52 of the Local Plan and Policies in Chapter 15 of the NPPF.

#### Ecology

- 10.20 The application site is adjacent River Holme which is known to be used by bats for foraging and commuting, is within the Wildlife habitat network and is adjacent to a number of protected trees. The land to be used for the greenhouse and pergola itself has low ecological value with it currently being in a state of part construction. The main consideration therefore is from the impact of the proposal on surrounding ecology.
- 10.21 The application has been considered on an inform basis by the Councils Ecologist who does not consider there to be an adverse impact given the low level lighting proposed and the limited size of the structures on the site. The Tree Officer has also assessed the proposal in respect to adjacent protected trees and does not raise any objection.

#### Highway issues

- 10.22 Turning to highway safety Policies LP21 and LP22 of the Local Plan are relevant which seek to ensure that proposals do not have a detrimental impact to highway safety and provide sufficient parking. The application has also been assessed by the Highways DM Officer who raises no objection.
- 10.23 Whilst the proposal would provide additional seating capacity for the existing restaurant the site is served by a large car park that provides sufficient capacity. The site is also served by internal turning which allows taxis or other vehicles to enter the site to drop off, turn and leave in a forward gear. The proposal is therefore considered to provide sufficient parking and would not be detrimental to highway safety. Given the sites location within the main part of the site it is not considered necessary to require a construction management plan for this development.

## Other Matters

- 10.24 *Economy* - Further to the above it is also noted that the development would support an existing new business that employees 28 full time and 11 part time staff from the local area and has gained local, regional and national awards. The applicant has set out that last summer due to the lack of outside seating areas customer levels dropped off particularly at times of fine weather. The proposed development would therefore help to support the existing business and aid in providing a year round offer for its customers and the local area. Policy LP10 is relevant which seeks to support the rural economy including tourism related developments and small and medium sized enterprises. In light of this policy support, weight is attached helping to support this existing business.
- 10.25 It is also noted that the application would contribute to the sites response to the Coronavirus pandemic and help the premises have a Covid Secure layout. The applicant has set out that the internal capacity will have to be reduced to allow for appropriate social distancing and the outside seating area will help to mitigate this reduced capacity. Nationally central Government has also set out support for pubs, cafes and restaurants to have outside seating areas in a statement on 25 June 2020. This will be supported through new legislation in the Business and planning Bill. The aim is to support existing business to open in a safe manner and support the local and national economy. This support, and these other benefits of the scheme are also noted by Officer and weight is afforded to this support of the business.
- 10.26 *Climate Change* –On 12th November 2019, the Council adopted a target for achieving ‘net zero’ carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.
- 10.27 In this instance the proposed development is considered to have a relatively low impact in terms of climate change, the pergola is of a timber construction which is a sustainable material and the development would support the provision of additional planting.

## Representations

- 10.28 In total 8 representations have been received in support.
- 10.29 A summary of the points made in support of the proposal are, with a response to the points raised are set out below:
- Whilst concerns existed in relation to the restaurant before the site was developed these have not been founded now that it has been operational for 18 months.
  - During the building phase construction disruption was kept to a minimum.

- The site has been operational for 18 months and it can be confirmed that noise levels from customers coming and going to the site is no greater for residents of Royds Mill than it was before the construction project. Furthermore there have not been any instances when fumes have been a problem nor can music be heard.
- Luke Lane is a busy road and there has been no noticeable increase in traffic or road noise.
- The development does not create any issues in relation to anti-social behaviour.
- The development has enhanced the area of Luke Lane and the building is in keeping with the surrounding area.
- The business employs local staff and has transformed a derelict mill and out buildings and provided other benefits like its riverside walk and garden.
- The restaurant has provided local residents with a place to eat, drink and socialise.
- The additions and alterations to the site will enhance the offer provided which is fully supported.

**Response:** The above points are noted.

## **11.0 CONCLUSION**

11.11 In conclusion the proposed greenhouse, pergola and temporary storage containers are considered to have an acceptable impact on the Green Belt, residential amenity, flood risk ecology and highway safety.

11.12 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.

11.3 The proposed development has been assessed against relevant policies in the development plan and other material considerations. It is considered that the proposed development would constitute sustainable development (with reference to paragraph 14 of the NPPF) 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 Planning and Development)**

1. Development within 3 years.
2. In accordance with the plans.
3. Storage container limited permission for 2 years.
4. Hours of use for customers and patrons
  - 0900 to 2230 Any Day of the week
5. Limitation on music levels.
6. In accordance with flood risk assessment.

**Background Papers:**

Application and history files.

Website link - <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f94094>

Certificate of Ownership – Certificate A signed: