

---

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

**STRATEGIC PLANNING COMMITTEE**

**Date: 15-Jul-2020**

**Subject: Planning Application 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 Woodlands Mill, Luke Lane, Thongsbridge, Holmfirth, HD9 7TB**

**APPLICANT**

D & LS Developments Ltd

**DATE VALID**

30-Jan-2020

**TARGET DATE**

26-Mar-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 Cllr Nigel Patrick who has also request that two other live applications 2019/94094 for greenhouse pergola and storage containers and 2019/94096 an extension to the building are also referred to committee at the same time. The reason for the request is set out below: set out that:

*“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 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. Several trees 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.

### 3.0 PROPOSAL:

3.1 The application seeks permission to 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.

3.2 The applicant proposes to vary the hours of use at the site the following:

- Northern Building:
  - 0900 to 2330 Sundays to Thursdays,
  - 0900 to 0000 Fridays and Saturdays and
  - 0900 to 0130 Christmas Eve and New Year's Eve
- Southern Building:
  - Southern Building: 0900 to 2000 any day of the week
- Deliveries or dispatches to or from the site:
  - 0730 to 2000 Monday to Friday,
  - 0800 to 1800 Saturdays
  - No deliveries on Sundays or Bank Holidays

3.3 With respect to changes to the approved plans, the following has been applied for after changes were made in the build phase of the development:

- **Car Park/External Layout –**
  - The layout of the car park has altered. The approved plans provided a car park with 42 spaces and additional overflow provision of 53 spaces. 57 spaces are proposed with 26 overflow spaces, the extension of the car park has reduced its width but extended in length.
  - Turning arrangements have been amended to have cured edged and the bin store has been relocated to the northern side of the site.
  - The nature walk adjacent the river has been increased in depth and a wildflower meadow has been introduced.
  - The bicycle storage area has been repositioned adjacent to the access path to the restaurant.
  - Vertical metal security rail fencing and a gate have been installed across the site entrance and around the site.
- **External Changes –** The following changes have been made to the main building on site.
  - Four rooflights on rear of eastern extension have been reduced to two.
  - Four-pane windows on southern elevation changed to single pane windows.
  - An external flue system has been installed on the roof on the north elevation. The flue projects a maximum of 2 metres from the roof slope and has a galvanized steel finish.
  - A steel / timber entrance canopy has been formed on western elevation.

- **Store and External Plant** – An enlarged storage/plant building has been formed adjacent to the access road. Externally the building is 14 metres long by 5 metres deep with a maximum overall height of 3.7 metres. The building is partly constructed from stone and partly clad in timber with a blue slate roof.

3.4 Information has also been provided in order to address matters reserved by condition in respect to the following elements:

- Contaminated land
- External lighting
- Extract ventilation
- External plant

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

##### *Planning Application History*

- 2019/94096 – erection of extension – **Decision Pending.**
- 2019/94094 - Erection of greenhouse pergola and storage containers– **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

### 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 2 representation have been received in objection to the proposal and 8 in support.

7.2 A summary of the points raised in objection to the proposal are:

- The extension of the hours of is wholly out of keeping with a rural area.
- Since opening the premises have constantly freely flouted the permitted hours of opening the site is being advertised to open from 9 am already. The application is retrospective.
- The proposal has resulted in noise disturbance from vehicles leaving the site.
- A nearby campsite has a 2300 noise policy which would be affect by this.
- The submitted noise policy is inadequate and is currently not be followed with stock being dragged around by staff 24 hours a day cause noise disturbance outside of the hours of use.
- The proposal would allow the premises to operate an addition 11 and a half hours longer at anti social hours.
- Currently loud people are leaving the premises at tomes of 2330.
- Allowing additional time for customer to drink will not make them any quieter.
- With the development of phase two taxis will inevitably pick up on Luke Lane next to the entrance close to Royds Mills and cause a disturbance.
- The matter of opening hours was considered carefully previously, there has been no change in circumstances which should allow for additional hours.

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 comings 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:**

- **KC Highways Development Management**– No objection

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

- **Environmental Health** – no objection

## **9.0 MAIN ISSUES**

- Scope of this application
- Background
- Green Belt and Design
- Hours of use and Residential amenity
- Highway Safety
- Ecology
- Other Matters
- Previously Imposed Planning Conditions
- Representations

## **10.0 APPRAISAL**

### Scope of this application

- 10.10 Section 73 of the Town and Country Planning Act 1990 concerns the “Determination of applications to develop land without compliance with conditions previously attached”, colloquially known as “varying” or “amending” conditions. Section 73 applications must also involve consideration of the conditions subject to which planning permission should be granted. Where an application under Section 73 is granted, the effect is the issue of a fresh grant of permission and the decision notice should list all conditions pertaining to it. The application cannot be used to vary the time limit for implementation.
- 10.11 It is important to note that when assessing Section 73 applications the previously granted planning permission is a significant material consideration, which impacts heavily on the assessment of the proposal. If the original application has been implemented, or if the permission has not yet expired, the applicant may go ahead and complete the original approved scheme if they wish.

- 10.12 In this case, the applicant could develop the site in accordance with the 2017 or 2018 permissions, and this fallback is a material consideration to which significant weight must be given. The principle of significant development at this site has already been accepted by the council.
- 10.13 Alterations to planning policy and other material considerations that may have emerged since the original grant of planning permission are relevant and need to be considered. However, these must be considered in light of the matters discussed in the above paragraphs and the applicant's ability to complete the originally approved development.
- 10.5 The application site is located within the Green Belt, partly within Flood Zones 2 and 3, and is adjacent to a wildlife corridor. The principle of the proposed alterations therefore need 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.

### Background

- 10.6 This application is to be heard at the same time as two other applications at the site, 2019/94096 for an extension to the northern building and application 2019/94094 for the formation of an outside seating area, greenhouse and pergola. It should also be noted that overall, the site consists of two main buildings, the northern building which has been developed and is in use and the southern building which is currently not developed. The overall planning permission extends to both buildings, but the changes details within this application focus on changes to the northern building and the wider associated area such as the car park.

### Green Belt and Design

- 10.7 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.*"
- 10.8 In Green Belt terms the changes to the approved plans include a slightly enlarged plant and storage room, an entrance feature and alterations to the layout of site. The extension to the plant and storage room are considered to form extensions to the existing building whilst the changes to the layout are considered to form an engineering operation. The other changes to the building are relatively minor and do not increase the scale of built form at the site, but their design needs to be considered in detail.
- 10.9 The erection of new buildings within the Green Belt represents inappropriate development within the Green Belt unless it falls under one of the categories set out in paragraphs 145 and 146 of the NPPF. The extension to an existing building within the Green Belt can be acceptable provided it does not lead to a disproportionate addition and engineering operations can be acceptable provided they preserve the openness of the Green Belt and do not conflict with the purposes of including the land within it.



- 10.10 The plant and storage room whilst larger than that approved is only 4.5 metres longer. The entrance feature whilst increasing built form at the site is only marginally larger than previously approved. 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 in terms of cubic volume that previously approved additions combined with those proposed by three applications submitted would represent a 40% increase in the scale of the original building on the site. Such a scale of addition whilst not small is, on balance, considered to be acceptable in Green Belt terms.
- 10.11 With regard to the changes in layout at the site, the main alterations has been the car park which has become elongated and more permanent spaces provided. Whilst larger than previously approved covers a similar foot print, approximately 1,500 sq metres compared to 1,400 sq metres previously. The amended layout has also allowed for an enlarged nature walk adjacent the river and has taken the car park away from the bank of the River Holme. The impact of the car park on the openness of the Green Belt is therefore is considered to be similar to that previously approved. In terms of the purposes of included land within the Green Belt, the most relevant of which is protect the countryside from encroachment the impact is also considered to be similar to that previously approved.
- 10.12 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
- 10.13 In terms of design the store and plant whilst longer are considered to of an appropriate design for an ancillary outbuilding and the use of stone and timber ensures that they are in keeping and appear subservient. The alterations to the layout of the car park, whilst increasing its length are considered to be mitigated by its reduction in width and the provision of the enlarged nature walk adjacent to the river which softens the edge of the car park. Furthermore, the car park is finished in a geo grid system which is softer than tarmac and allows for the drainage of water. The bins store and cycling parking have been previously approved and their reposition is not considered to be detrimental on design grounds or in terms of impact on the Green Belt. An entrance gate has been previously approved at the site and the new gate is considered to be acceptable given the sites overall context.
- 10.14 The alterations to the building itself included within the application are relatively minor with the reduction in roof lights on the northern elevation, changes to window arrangements and the formation of an entrance feature on the western elevation. These alterations are all considered to be of an acceptable design. The most significant change in design is the installation of an extract flue on the northern elevation. The flue whilst not small is located in a less prominent elevation and not readily visual from Luke Lane. From longer distance views from the north, the flue is read in conjunction with the backdrop of the building given that it does not extend above the ridge of the building helping it to sit more comfortably within the overall appearance of the development. The design of the flue is therefore on balance considered to be acceptable.

10.15 In conclusion the enlargements and alterations to the approved development are considered to have an acceptable impact on the Green Belt and the design is considered to be acceptable and would accord with the requirements of Chapters 12 and 13 of the NPPF and Policies LP24 and L57 of the Local Plan.

#### Hours of Use and Residential Amenity

10.16 The other main alterations proposed by this application relates to the hours of use, where the applicant is seeking to extend these later into the evening and slightly early in a morning. The impact of the changes in hours 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. The applicant has also been assessed in detail by Environmental Health.

10.17 Currently the site has permission to operate within the following hours of use:

- Northern Building: 0930 to 2230 any day of the week
- Southern Building: 0900 to 2000 any day of the week
- Deliveries or dispatches to or from the site: 0730 to 2000 Monday to Friday, 0800 to 1800 Saturdays
- No deliveries Sundays and Bank Holidays

10.18 The applicant is proposing the following hours of use:

- Northern Building:
  - 0900 to 2330 Sundays to Thursdays,
  - 0900 to 0000 Fridays and Saturdays and
  - 0900 to 0130 Christmas Eve and New Year's Eve
- Southern Building:
  - Southern Building: 0900 to 2000 any day of the week
- Deliveries or dispatches to or from the site:
  - 0730 to 2000 Monday to Friday,
  - 0800 to 1800 Saturdays
  - No deliveries on Sundays or Bank Holidays

10.19 The proposed longer hours focus on the northern building, which is the only building in operation and seeks to use the site half an hour longer in the morning commencing at 9am and then 1 hour long Sundays to Thursdays and 1 and half hours longer on Fridays and Saturdays with longer opening times for Christmas and New Years Eve. The hours for the southern building would remain unchanged.

- 10.20 The applicant has set out that the extended hours of use are required as customers tend to spend several hours at the premises, firstly enjoying pre-dinner drinks, followed by a meal and then after dinner drinks both (non-alcoholic and alcoholic). The applicant has put forward that the extended hours will allow customers to enjoy a fuller evening without the need to leave early and that the applicant fears that if they have to force customers to leave early, especially on a Friday and Saturday evening that this will lead to a loss of customer and have a detrimental impact on a relatively new business. The applicant also expects that the majority of customers would leave by 11pm Sunday to Thursday and 11.30pm on Fridays and Saturdays. The applicants drinks licence lasts until 11pm and the additional time is required to act as a buffer, they have also advised that the majority of staff will leave by 11 or 11.30pm. Furthermore, the applicant has put forward that the site mainly operates Wednesday to Sunday with Mondays and Tuesday often closed for customers, though it is noted that some dinner clubs run on those evenings. Finally, the applicant seeks to operate longer hours on Christmas Eve and New Years Eve to allow the site to operate until 1.30am.
- 10.21 The applicant has set out in their supporting statement that they are not aware of any known noise related issues that would make extending the hours inappropriate. They have also detailed that the car park and bin storage is located on the western side of the site away from residential properties and that bottle disposal only occurs within sociable hours. The site benefits from an air conditioning system that allows it to operate without opening windows and the south facing elevation closest to the adjacent properties has minimal openings.
- 10.22 A noise management plan has also been put forward which details when bottles will be empty not after 10pm, that the calming music will be played towards the end of each evening, that signs around the site are already in place, a designated taxi rank has been created within the site to prevent pick up and drop offs on Luke Lane, that deliveries take place at sociable hours and that training will be given to staff to ensure noise is adequately controlled.
- 10.23 The submitted information has been considered in detail by Planning and Environmental Health. The closest noise sensitive properties are at Royds Mill which at its very closest point is 18.5 metres from the premises, though it is noted that the entrance to the premises is located on the western side and 53 metres from Royds Mill. This separation from the main entrance assists in ensuring that noise generating activities are kept away from Royds Mill. Whilst it is acknowledged that an extension of hours would lead to some additional car movements later into the evening these are not considered to be significantly detrimental given that they would adjoin an existing well trafficked road in Luke Lane.
- 10.24 Environmental Health have confirmed that they have no objection to an extension in the hours of use provided that the matters set out in the noise management plan are adhered to. These comments are noted and it is considered that the additional hours would support the existing business whilst not a detrimental impact on the amenity of surrounding noise sensitive properties.

- 10.25 However, it is noted that other activities associated with the wider operation of the premises such as cashing up, cleaning, good preparation and general maintenance would take place outside the hours of operation for customers, and this issues has been raised by objections received. These other actives are considered to have a minimal impact on residential amenity as they would mainly relate to activities within the building which are mitigated by fabric of the building itself. However to provide clarity and a level of additional protection for adjacent properties it is considered appropriate to condition the hours of operation for these other activities to no occur before 7 am and not be any later than an hour past the extended hours for customers. Furthermore, a restriction will be placed on deliveries to not occur before 7.30 and not after 8pm Monday to Friday and 8am to 6pm on Saturdays with no deliveries on Sundays or bank holidays. A restriction on the disposal of bottle will also be added to not occur before 9am or after 9pm.
- 10.26 Subject to the conditions set out above the proposal is considered to have an acceptable impact on residential amenity and would accord with Policies LP24 and LP52 of the Local Plan and Policies in Chapters 12 and 15 of the NPPF.

#### Highway issues

- 10.27 Turning to highway safety Policies LP21 and 22 of the Local Plan are relevant which seeks 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.
- 10.28 The amendments to the car park layout retain acceptable parking provision to serve the site and acceptable turning arraignments. Furthermore the additional hours of use are outside of the peak and are not considered to be detrimental to highway safety. park layout. The proposal is therefore considered to have an acceptable impact on highway safety.

#### Ecology

- 10.29 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 impact of the changes on local ecology therefore needs to be considered against Policy LP30 of the Local Plan and Policies in Chapter 15 of the NPPF. The ecological impact from the proposed changes would be the elongated car park. Whilst now longer as set out above the overall footprint of the car park is broadly similar to that previously approved and the provision of the nature walk has helped increase biodiversity along the river corridor. It is therefore considered that the proposed changes would not have a detrimental impact to local ecology.

#### Other Matters

- 10.30 *Flood Risk* - The application site is located within Flood Zones 1, 2 and 3, is position adjacent to the top of the riverbank of the River Holme. The proposed changes to the approved plans are not considered to increase floor risk at the site.

- 10.31 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.
- 10.32 *Economy* - Further to the above it is also noted that the development would support an existing new business that employs 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.
- 10.33 *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.
- 10.34 In this instance the proposed alterations to the building and layout of the car park are minimal. The car park is surfaced in a permeable material which allows water to drain and the provision of an enlarged nature walk has helped to retain a high degree of biodiversity at the site.

#### Previously Imposed Planning Conditions

- 10.35 The application represents a new planning permission and the majority of the works for the northern building have now been completed. Therefore the conditions attached to the previous permission 2018/90876 need to be reviewed.
- 10.36 *Condition 1* – Time Limit, no longer required as work has commenced.
- 10.37 *Condition 2* – In accordance with the approved plans, will be reissued as remains relevant.
- 10.38 *Condition 3* – Submission of material samples for extension, this work is complete so the condition is no longer required.
- 10.39 *Condition 4* – Details for the surfacing of the car park, these works are complete and are acceptable and details set out on the submitted layout plan, the condition is therefore no longer required.

- 10.40 *Condition 5* – Details of how the adjacent PROW will be protected before works commenced on the service yard, deliveries area and entrance piazza, these works are complete to the condition is no longer required.
- 10.41 *Condition 6* - Details of how the adjacent PROW will be protected before works commenced on the service yard, deliveries area and entrance piazza or the southern building. Whilst works to the service yard, deliveries area and entrance piazza have been completed, the southern building remains undeveloped, therefore condition will be amended to just cover the southern building.
- 10.42 *Condition 7* - Submission of cycle storage details, the cycle storage areas has been provided and is set out on the layout plan, therefore the condition is no longer required.
- 10.43 *Condition 8* - Construction management plan, whilst the works to the northern building have been completed the southern building remains to be developed, therefore the condition will be amended to require submission of the details before work commences on the southern building.
- 10.44 *Condition 9* – Works in accordance with the Arboricultural Method Statement. Given that the works which directly impact on the protected trees has taken place the condition is no longer required.
- 10.45 *Condition 10* – Restricting the removal of vegetation, works which could lead to the removal of vegetation have been completed, the condition is no longer required.
- 10.46 *Condition 11* – Submission of an ecological design strategy, details were approved as part of discharge of conditions application 2019/994030, the condition will be reworded to require it to follow the approved strategy.
- 10.47 *Condition 12* – Submission of an invasive non- native species protocol, details were approved as part of discharge of conditions application 2018/90205 and the actions of the protocol were implemented, though it requires on going monitoring, the condition reworded to follow the protocol.
- 10.48 *Condition 13* – Submission of a Landscape and ecological management plan, details were approved as part of discharge of conditions application 2019/994030, the condition will be reworded to require it to follow the approved plan.
- 10.49 *Condition 14* – Submission of a lighting design strategy, details were approved as part of this application which have been reviewed by Environmental Health and the Councils Ecologist. The submitted details are considered to be acceptable. Given that the lighting works have been completed the condition is no longer considered necessary.
- 10.50 *Condition 15* – Hours of use, condition discussed in detail above, to be amended and replaced by 4 conditions for hours of use, deliveries, other activities and bottle disposal.

- 10.54 *Condition 16* – Details of extract ventilation, details have been submitted under application 2019/94030 and assessed by Environmental Health who consider the details to be acceptable. The ventilation system has been installed and therefore the condition is no longer necessary.
- 10.55 *Condition 17* – Details of external plant, details have been submitted under application 2019/94030 and assessed by Environmental Health who consider the details to be acceptable. The plant has been installed and therefore the condition is no longer necessary.
- 10.56 *Condition 18* – obscure glazing of windows in the southern building, to be retained.
- 10.57 *Condition 19* – Electric charging points, whilst the site is operation the charging points have not be installed, with the applicant advising that the costs associated with their installation have not made them currently viable. The applicant has requested that the provision of the charging points is delayed until January 2022 due to the current economic impact the coronavirus pandemic is having on the hospitality sector. Officers have consider this request and consider January 2022 to longer period before they are installed. It is acknowledged that the coronavirus pandemic could have a significant impact on the hospitality businesses and therefore on balance it is considered reasonable to grant some additional time for their installation until June 2021. This will be secured by condition.
- 10.58 *Condition 20* – restriction of retail floorspace, remains relevant and will be reissued.
- 10.60 *Condition 21* – No building or obstruction within 3 meters of a water main, remains relevant and will be reissued.
- 10.61 *Condition 22* – Submission of a Phase II Site Investigation Report, details were approved under application 2018/90205 and therefore no longer relevant for the norther building or wider site but will be reissued to cover the southern building only.
- 10.62 *Condition 23 and 24* – Submission of remediation and in accordance with remediation strategy, details were approved under application 2018/90205 and therefore no longer relevant for the norther building or wider site but will be reissued to cover the southern building only.
- 10.63 *Condition 25* – Submission of a validation report, details have been submitted to set out the remediation measures installed which Environmental Health have reviewed have accepted. However the condition will be reimpose for the southern building only.
- 10.64 *Condition 26* – Applicant to sign up to the flood warning system form the Environment Agency, as the site is operation this condition is no longer necessary.
- 10.65 *Condition 27* – Restriction in the scale of A3 floorspace. Reimpose with a slight increase in floor space to account for the extension proposed under application 2019/94096.

## Representations

10.27 In total 2 representations has been received in objection and 8 in support.

10.28 A summary of the points raised in objection to the proposal are, with a response to the points raised are set out below:

- The extension of the hours of is wholly out of keeping with a rural area.
- Since opening the premises have constantly freely flouted the permitted hours of opening the site is being advertised to open from 9 am already. The application is retrospective.
- The proposal has resulted in noise disturbance from vehicles leaving the site.
- A nearby campsite has a 2300 noise policy which would be affect by this.
- The submitted noise policy is inadequate and is currently not be followed with stock being dragged around by staff 24 hours a day cause noise disturbance outside of the hours of use.
- The proposal would allow the premises to operate an addition 11 and a half hours longer at anti social hours.
- Currently loud people are leaving the premises at tomes of 2330.
- Allowing additional time for customer to drink will not make them any quieter.

**Response:** The impact of additional hours of use at the site has been considered in detail above. It is noted that the application has in part been submitted retrospectively and there has been an ongoing enforcement case it issues raised. It is considered that subject to the conditions set out above the proposal would have an acceptable impact on residential amenity.

- With the development of phase two taxis will inevitably pick up on Luke Lane next to the entrance close to Royds Mills and cause a disturbance.

**Response:** The operation of the southern building is restricted to 9am to 8pm any day of the week which is considered to represent sufficient protection for adjacent residents. Space for taxi drop off and collection is included within the site and a large car park would also provide space for visitors to park.

- The matter of opening hours was considered carefully previously, there has been no change in circumstances which should allow for additional hours.

**Response:** It is noted that there have been a number of applications on the site to consider hours of use, this application has considered in detail these hours of use.

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 comings 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.

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

## **11.0 CONCLUSION**

11.11 In conclusion the alterations proposed by this application are considered to have an acceptable impact on the Green Belt, residential amenity, flood risk ecology and highway safety and all other material planning considerations.

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. In accordance with the approved plans.
2. Submission of details to protect the prowl before works commence on the southern building.
3. Protection of PROWL before works commence on the southern building.
4. Submission of a construction management plan before works commence on the southern building.
5. Development to follow approved Ecological Design Strategy.
6. Development to follow approved invasive species plan.
7. Development to follow approved Landscape and Ecological Management Plan.
8. Hours of use for customers.
9. Hours of use for deliveries
10. Hours of use for other activities.
11. Hours of use for bottle disposal.
12. Obscure window in southern building.
13. Provision of electric charging points.
14. Restriction on retail floor space.
15. No buildings within 3 metres of the water main.
16. Phase II report for southern building.
17. Remediation for southern building.
18. Accord with remediation of southern building.
19. Validation report for southern building.
20. Restriction on A3 floorspace.

**Background Papers:**

Application and history files.

Website link - <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f90302>

Certificate of Ownership – Certificate A signed: