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

**STRATEGIC PLANNING COMMITTEE**

**Date: 16-Sep-2020**

**Subject: Planning Application 2020/91488 Reserved matters application pursuant to outline permission 2016/92298 outline application for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) (Phase 1) to include the discharge of Conditions 6 (BEMP), 17 (Site investigations), 18 (Tree Survey), 19 (PROW), 29 (Noise attenuation) and 31 (Electric vehicle charging points). Former North Bierley Waste Water Treatment Works, Oakenshaw, BD12 7ET**

**APPLICANT**

Interchange 26 LLP

**DATE VALID**

22-May-2020

**TARGET DATE**

21-Aug-2020

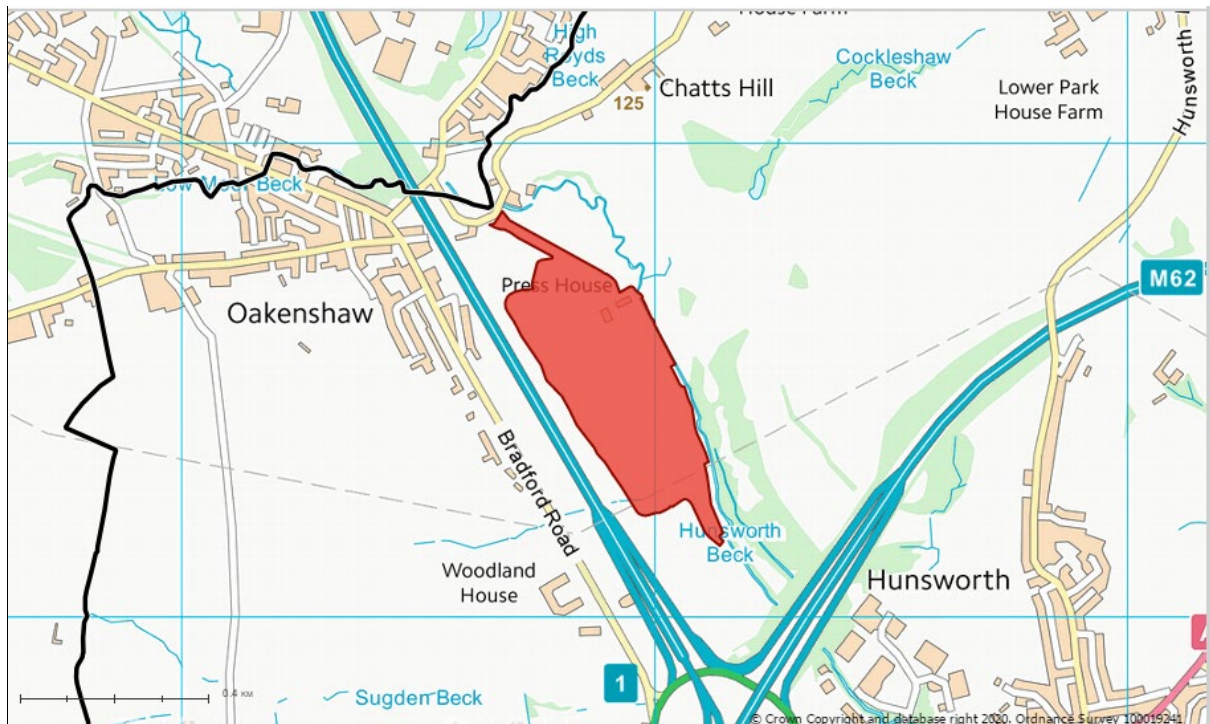
**EXTENSION EXPIRY DATE**

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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: Cleckheaton**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**RECOMMENDATION:**

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

**1.0 INTRODUCTION:**

- 1.1 In accordance with the Council's Scheme of Delegation, this application is brought to Committee on the grounds that it is a non-residential planning application where the site boundary exceeds 0.5 hectares and also, due to the significant volume of local opinion on the proposal.
- 1.2 Outline planning permission (2016/92298) for the re-development of the former waste water treatment works to provide employment uses within Use Classes B1(c) (light industrial), B2 (general industrial) and B8 (storage and distribution) was issued on 25<sup>th</sup> October 2018 following its approval at Strategic Planning Committee on 8<sup>th</sup> March 2018. This outline application was granted with all matters reserved subject to conditions and a S106 Legal Agreement.
- 1.3 A Non Material Amendment (NMA) application (2020/91436) was approved under Delegated Powers in May 2020 to allow for the non-material modification of the wording of Conditions 1, 2, 4, 6, 8, 9, 16, 17, 18, 19, 23, 24, 25, 26, 29, 30 and 31 of 2016/92298. This NMA did not alter either the intent or the requirements of the conditions on the outline permission but allows them to be submitted for each phase to allow for a phased approach to the delivery of the site. The NMA should be read in conjunction with 2016/92298 with the NMA providing the up-to-date wording of the conditions.
- 1.4 This application is a Reserved Matters submission pursuant to Phase 1 only. It seeks approval for matters of access, layout, scale, appearance and landscaping for this phase. Phase 1 specifically comprises the construction of the access road and the formation of plateaued, remediated and serviced development plots. It is, in effect, an application to discharge Conditions 1, 2 and 3 of 2016/92298, which require approval of the reserved matters from the Local Planning Authority in writing before the expiration of three years from the date of the outline permission.
- 1.5 In addition, the application also seeks to discharge Condition 6 (Biodiversity Enhancement Management Plan), Condition 17 (Site investigations), Condition 18 (Tree Survey), Condition 19 (PROW), Condition 29 (Noise attenuation) and Condition 31 (Electric vehicle charging points) of 2016/92298 as they relate to Phase 1.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 In its entirety, the application site extends to approximately 23 hectares incorporating the area of the former North Bierley Waste Water Treatment Works (WWTW) as well as agricultural fields. It is situated to the north-west of the M62 and to the east of the M606. The site slopes down from the north to the south with motorway embankments to the south and west.
- 2.2 Access to the site is achieved from Cliff Hollins Lane utilising the road that previously served the WWTW. This connects onto Mill Carr Hill Road, which rises up to join Bradford Road. Turning left onto Bradford Road then provides a connection to Junction 26 of the M62.
- 2.3 The surrounding area is broadly residential in character. The site is positioned between the settlements of Oakenshaw to the north and Cleckheaton to the south. The village of Oakenshaw is broadly to the north-west of the site and includes dwellings positioned along Bradford Road, to the west of the M606. There are further residential properties to the north-east and north-west of the site, along Cliff Hollins Lane (which are closest to the site) and Mill Carr Hill Road. The Woodlands C of E Primary School lies at the bottom of Mill Carr Road, close to the junction with Cliff Hollins Lane.

## **3.0 PROPOSAL:**

- 3.1 The outline planning permission, which was granted with all matters reserved, established the principle of the demolition of the WWTW structures and the subsequent development of the site for employment use to provide a maximum of 35,284m<sup>2</sup> of B1, B2 and B8 uses.
- 3.2 This is a Reserved Matters application to discharge Conditions 1, 2 and 3 of 2016/92298 in relation to the first phase of development.
- 3.3 Condition 1 of 2016/92298 requires the following:

*'Approval of the details of the access, appearance, scale, landscaping and layout of the site (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced.*

*Reason: No details of the matters referred to having been submitted they are reserved for the subsequent approval in writing of the Local Planning Authority'*

- 3.4 Conditions 2 and 3 state:

*'Plans and particulars of the reserved matters referred to in Condition 1 above, relating to the access, appearance, scale, landscaping and layout of the site shall be submitted in writing to the Local Planning Authority and shall be carried out in full accordance with the approved plans.*

*Reason: No details of the matter referred to having been submitted they are reserved for the subsequent approval in writing of the Local Planning Authority.*

*Application for approval of any reserved matter shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.*

*Reason: Pursuant to section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004'.*

- 3.5 Reserved Matters are defined in Article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 as the following:

Access – the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network.

Appearance – the aspects of a building or place within the development which determine the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture.

Scale – the height, width and length of each building proposed within the development in relation to its surroundings

Landscaping' – the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes: (a) screening by fences, walls or other means; (b) the planting of trees, hedges, shrubs or grass; (c) the formation of banks, terraces or other earthworks; (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and (e) the provision of other amenity features;

Layout – the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development.

- 3.6 Consequently, this Reserved Matters application provides details of the access, appearance, scale, landscaping and layout of Phase 1 only, for the construction of the access road and the formation of plateaued, remediated and serviced development plots.

#### Access

- 3.7 Access to the development to be constructed as part of Phase 1 would be taken from Cliff Hollins Lane. It would be built in accordance with the scheme submitted and considered at outline planning stage. This would comprise an amendment to the priority of Cliff Hollins Lane at the site access so that the development traffic has right of way. The continuation of Cliff Hollins Lane towards East Bierley would then give way at a T-junction.
- 3.8 A spine access road would be constructed to serve the development. This would run almost centrally through the site allowing for development plots on each side before joining the south-western boundary of the site and continuing to the eastern perimeter.

## Appearance and Scale

- 3.9 With regard to appearance and scale, no buildings are proposed within Phase 1. The first buildings will come forward as part of Phase 2. Accordingly, no details are required for this Phase 1 Reserved Matters submission and no further assessment on these two aspects is necessary.

## Landscaping

- 3.10 The submitted landscape scheme principally indicates the following:

Landscaping along the northern edge of the existing access road to include the planting of new trees (including lime and silver birch).

Just beyond this, where the new spine road would be constructed, a group of trees clustered around 2 water attenuation basins (willow, birch, and black alder) as well as some native shrubs. In terms of the layout of Phase 1, this relates principally to the creation of development the plots. This will involve the re-profiling of the land to create three primary development zones.

- 3.11 In addition, the proposal includes the formation of development plateaus. This would involve cut and fill across part of the site, as summarised below:

- On a broadly north-south section across the site, the ground level would effectively remain the same along the access road. As the access road extends south-westward, ground levels between the access road and Unit 1 would be raised by between approximately 720mm-825mm;
- Where the development plateau for the building at Unit 1 is to be created, the ground would be raised by between 1500mm and 1900mm;
- At the northern edge of Unit 2, the ground level would be broadly unchanged. However, to create the development plateau where the building is to be sited, the ground would be raised by between 1300mm towards the northern end of the site of Unit 2 increasing to 2900mm towards the southern end;
- Site levels would then be relatively unchanged toward the southern edge of the boundary;
- The east-west cross-sections show how the development plateaus would be cut into the site in that direction. For Unit 1, the development plateau would be cut into the ground (i.e. existing level lowered) by between 996mm and 4000mm;
- For Unit 2, the cut into the existing ground level would be between 375mm and 3370mm.

## Layout

- 3.12 No buildings are proposed within Phase 1. With regard to routes and open spaces, as noted above, the access road run almost centrally through the site allowing for development plots on each side. Three development areas are indicated; one to the west of the access road and two to the east.

## Discharge of conditions

- 3.13 Approval is also sought to discharge six conditions pursuant to the outline planning permission. These conditions are mainly worded in such a way that they require the detailed plans and particulars of the Reserved Matters to include these details. The requirements of these conditions are set out below:

- 3.14 Condition 6 (Biodiversity Enhancement Management Plan)

*Detailed plans and particulars of the Reserved Matters for the first phase of development shall include a Biodiversity Enhancement and Management Plan (BEMP) for the entire site. The content of the BEMP shall include the following:*

- a) Description and evaluation of the features to be managed.*
- b) Ecological trends and constraints on site that might influence management.*
- c) Aims and objectives of management.*
- d) Appropriate management options for achieving aims and objectives.*
- e) Prescriptions for management actions.*
- f) Details of initial aftercare and long-term maintenance;*
- g) Details of the body/ organisation responsible for implementation of the plan.*
- h) Details for on-going monitoring and remedial measures.*

*The approved plan and particulars shall be implemented in accordance with the approved details and timescales pre, during and post construction.*

*Reason: In the interests of the biodiversity of the area and to accord with Policy EP11 of the Kirklees Unitary Development Plan, PLP30 of the Publication Draft Local Plan and guidance within chapter 15 of the National Planning Policy Framework. This is a pre-commencement condition in order to ensure that adequate mitigation and enhancement measures are incorporated into the development at the appropriate stage of the development.*

- 3.15 To discharge Condition 6 pursuant to Phase 1, the applicant has submitted a BEMP prepared by Brooks Ecological dated 25<sup>th</sup> June 2020. It addresses biodiversity enhancement across the entire site with particular management prescriptions for areas of retained natural habitat and new features to support biodiversity created through the development. In broad terms, it identifies specific aims for a management plan, to include maintaining an open and diverse range of grassland, wildflower, scrub and woodland vegetation, enhancing the ecological function and habitat quality of the Hunsworth Beck corridor, eradicating where possible non-native invasive plants and encouraging the use of the site by target groups such as pollinating insects, birds and riparian mammals. Specific objectives include native hedgerow management, planted tree shelter belts, new wildflower grassland and specific features for bats, birds, hedgehogs and otters.

3.16 Condition 17 (Site investigations)

*Detailed plans and particulars of the reserved matter (layout & landscape) for each phase pursuant to conditions nos. 1, 2 and 5 above shall include:*

- a) A report of the findings following intrusive site investigations carried out in relation to condition no. 16,*
- b) The results of any gas monitoring undertaken,*
- c) A layout plan which identifies appropriate zones of influence for the recorded mine entries on site and the definition of suitable 'no build' zones,*
- d) A scheme of treatment for the recorded mine entries for approval;*
- e) A scheme of remedial works for the shallow coal workings for approval,*
- f) Details and how d) and e) above are to be undertaken, and*
- g) Written verification that the remediation works shall be carried out in accordance with the approved details.*

*Thereafter the development of each phase shall be carried out in accordance with the approved details. Prior to the first use of each phase of the approved development, written confirmation shall be submitted to the Local Planning Authority, verifying the works have been fully completed in accordance with the approved details.*

*Reason: In the interest of health and safety. This is a pre commencement condition to ensure any pollution/risk identified is dealt with appropriately, to ensure the users of the new development are protected from being put at unacceptable risk and to accord with Policies D2 and G6 of the Kirklees Unitary Development Plan, PLP52 and 53 of the publication Draft Local Plan as well as guidance in the National Planning Policy Framework.*

- 3.17 The application includes the submission of a Phase II Geo-environmental Assessment prepared by Wardell Armstrong (November 2017) and additional ground investigation reports. A Phase II Site Investigation report by Curtins dated 3rd December 2019 has also been provided. An assessment of the findings is summarised in the relevant section below.

3.18 Condition 18 (Tree Survey)

*Detailed plans and particulars of the reserved matters (layout & landscape) for the first phase pursuant to conditions nos. 1, 2 and 5 above shall include a tree survey and Arboricultural method statement for the entire site in accordance with BS5837.*

*Reason: In the interests of visual amenity and to prevent direct or indirect harm to the adjacent ancient woodland (Hanging Wood) and any trees to be retained on site, in accordance with Policy NE9 of the Kirklees Unitary Development Plan, Policy PLP33 of the Publication Draft Local Plan and guidance within the National Planning Policy Framework.*

- 3.19 An Arboricultural Impact Assessment and Arboricultural Method Statement prepared by Brooks Ecological has been submitted to discharge Condition 18. This details the impact of the development on the proposed trees with the following identified for removal as part of Phase 1: T6 (Goat Willow low quality); T7 (Hawthorn moderate quality); T8 (Hawthorn moderate quality); T9 (Hawthorn moderate quality); T10 (White poplar low quality); T11 (Hawthorn low quality) plus one tree for the Mill Carr Hill/Bradford Road works T15 (Cherry moderate quality). Tree group G9 would also require removal. There is however, the opportunity within the scheme to plant new trees to off-set the loss, which is detailed in the landscape scheme. The Assessment also confirms that seven trees, five whole tree groups (and groups with sections

removed) and the hedgerow would be retained for the Phase 1 development. These would be protected with security fencing. It also confirms that Hanging Wood, adjacent to the east side of the Site, which is protected by a Tree Preservation Order (ref: SP1/51/W2), would be protected by the retention of the existing boundary and site fencing to the edge of this wood.

### 3.20 Condition 19 (Public Rights Of Way (PROW))

*Detailed plans and particulars of the reserved matters (layout & landscape) for the first phase pursuant to conditions nos. 1, 2 and 5 shall include details for the treatment and enhancement of existing public right of way no. SPE/21/20, crossing the site. No part of the development shall be brought into use until the approved works comprising the approved scheme have been completed.*

*Reason: For the convenience of all those using the public right of way and to accord with Policy R13 of the Kirklees Unitary Development Plan, Policies PLP23 and 31 of the Publication Draft Local Plan and guidance within the National Planning Policy Framework.*

- 3.21 The PROW follows the route of the existing entrance road to the former waste water works. Towards the end of the road, it enters the field to the left of the site towards Hanging Wood. In order to discharge Condition 19, the applicant has submitted a PROW plan, which indicates the position of the PROW in relation to the access road, and also, an improvement strategy. These were amended in the course of the application to reflect discussions with the Council's PROW Officer. As submitted, it now proposes that the PROW follow the new site entrance road with tree planting adjacent to the fields on the north. A gate (with a sign) would provide access into the field off the road as an access route to land retained by Yorkshire Water. The grass footpath across the field would be retained whilst the footbridge across Hunsworth Beck would be cleared of vegetation obstructions. Scrub diversification is proposed where the footpath crosses site land after the bridge and this route would be re-surfaced to define the path. New post and wire fencing would be sited along the edge of the site adjacent to the Beck with a new kissing gate installed to give access to the Hanging Wood field. The gates would require separate approval from the PROW section.

### 3.22 Condition 29 (Noise attenuation)

*Detailed plans and particulars for each phase of the reserved matters (layout & landscape) pursuant to condition nos. 1, 2 and 5 above, shall demonstrate how proposals for that phase will achieve a level of 5dB attenuation measures through the provision of screening and land features as predicted in Table 21 of the Noise & Vibration Report by AECOM, dated December 2017. Thereafter the development of each phase shall be completed in accordance with the approved details, before occupation of any building within each phase.*

*Reason: In the interest of residential amenity of nearby residents and to accord with Policies EP4 of the Kirklees Unitary Development Plan, PLP52 of the Publication Draft Local Plan and guidance within the National Planning Policy Framework*



3.23 Condition 29 refers specifically to Table 21 of the Noise and Vibration Report submitted as part of the outline planning application. This table refers to a noise level basement from the nearest noise sensitive receptors (residential properties on Bradford Road and Cliff Hollins Lane) based upon the use of a vehicle reversing within the Employment Zone. It relates specifically to noise from operational site activities (comprising HGV Movements and reversing alarms) rather than noise associated with the construction phase. Consequently, whilst it requires details for each phase, given the nature of Phase 1 as a construction phase, it is not considered to be directly applicable and it does not require the submission of specific information for its discharge. The construction process is, in any event, controlled by Condition 8 (demolition and enabling works), considered as part of 2020/92342.

3.24 Condition 31 (Low emissions/Electric vehicle charging points)

*Detailed Plans and particulars of the Reserved Matters (layout and landscape) for each phase pursuant to condition nos. 1, 2 and 5 shall include:*

- *On site, low emission mitigation strategies, and*
- *Details of electric charging points which shall be installed on the basis of 1 charging point per 10 spaces.*

*Thereafter, each phase of the development shall be completed in accordance with the approved details/mitigation strategies, before occupation/use of any building on site within that phase.*

*Reason: To offset and mitigate the impact from the development, equivalent to the identified damage costs and to accord with the guidance contained in Chapter 9 and Chapter 15 of the National Planning Policy Framework, the West Yorkshire Low Emissions Strategy and Policies PLP 24 and PLP21 of the Kirklees Publication Draft Local Plan.*

3.25 Whilst Condition 31 require details of low emission mitigation strategies and details of electric vehicle charging points for each phase, it is considered that this is pertinent to the operational phase associated with the construction of the commercial and industrial units approved in principle at outline stage. It is not applicable to Phase 1, which effectively forms part of the construction phase. There is neither a demand nor a requirement for electric vehicle charging points during a construction phase nor can low emission strategies be implemented given the short-term nature of Phase 1. For these reasons, the applicant has not submitted any specific details and none are deemed necessary for Phase 1.

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

4.1 The most relevant planning history for this site is detailed below:

2016/92298: Outline application for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8).

Approved: 25<sup>th</sup> October 2018 subject to conditions and a S106 Legal Agreement.

2019/93679 Discharge of condition 16 (site investigation) of previous outline permission ref: 2016/92298.

Approved: 19th December 2019

2019/93727: Discharge of condition 7 (Construction Ecology Management Plan) of previous outline permission ref: 2016/92298.

Approved: 19th December 2019

2020/91436: Non material amendment to previous permission 2016/92298 for outline application for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8).

Approved: 22<sup>nd</sup> May 2020

2020/91468: Discharge of Condition 5 (Phasing Plan), Condition 11 (Sewer Overflow), Condition 13 (Foul Water Drainage), Condition 14 (Discharge of Surface Water), Condition 23 (Flood Risk) and Condition 24 (Disposal of Surface Water) on previous permission 2016/92298 (Phase 1).

Pending Consideration

2020/92342: Discharge of Condition 8 (Construction Environment Management Plan (demolition and enabling works) (Phase 1) of previous permission 2016/92298.

Pending Consideration

2020/92345 Discharge of Condition 26 (surface water) (Phase 1) of previous permission 2016/92298.

Pending Consideration

2020/91889 Discharge of Condition 20 (Highway Works) on previous permission 2016/92298.

Pending Consideration

2020/91807: Reserved matters application pursuant to outline permission no. 2016/92298 for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) (Phase 2).

Pending Consideration

2020/91398 Discharge condition 16 (Phase 2) on previous permission 2016/92298 for outline application for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8).

Pending Consideration

2020/91808 Discharge conditions 16 and 25 on previous permission 2016/92298 for outline application for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) (Phase 2).

Pending Consideration

### Enforcement

- 4.2 A Temporary Stop Notice (TSN) was served on the site on 10th July 2020. It was issued as a result of construction works having commenced without the relevant pre-commencement conditions having been discharged. The works that had started were principally deemed to have caused harm to residential amenity as a consequence of the stockpiling of material on the boundary of the site near to residential properties. The TSN required the applicant to

cease all construction works pursuant to 2016/92298, including demolition, excavation & engineering works. It took effect on 10 July 2020 and ceased to have effect on 7 August 2020.

- 4.2 It should be noted that the applicant complied with the terms of the TSN and has been working closely with the Council to resolve the outstanding matters. As a result, the Council were subsequently satisfied that sufficient information had been provided within the relevant discharge of condition applications to enable the demolition phase to continue on site without prejudicing the Council's consideration of this Reserved Matters application or the discharge of condition applications. Demolition works recommenced on site in late August.

#### Applications within the remit of City of Bradford Metropolitan District Council

- 4.3 The original outline planning application was submitted as a cross-boundary application because its red line boundary included a parcel of land within Bradford MDC to be used as a 36 space car park for Woodlands C of E Primary School. This application was considered by Bradford in accordance with planning reference 16/06146/MAO and approved on 20 July 2018. At the time of writing this report, the following related applications are pending consideration by Bradford Council:

2020/01010/MAR: Reserved matters application requesting consideration of access, appearance, landscaping, layout and scale of school car park (pursuant to outline approval (16/06146/MAO).  
Pending consideration at 17<sup>th</sup> September Committee.

16/06146/SUB01: Submission of details required by Conditions 3 (Plans), 4 (Sewer Protection), 5, 7, 8 (Surface Water Drainage), 9 (Downlighting), 11 (Barriers/Gates) and 12 (Electric Vehicle Charging Points) of permission 16/06146/MAO  
Pending consideration.

- 4.4 The car park does not fall within the red line of this Reserved Matters application and it is not a cross-boundary application. However, it is relevant to note that the provision of the car park followed public consultation on the original outline permission. It was a direct result of local concerns about conflicts between school children and employment traffic during school pick-up and drop-off times. It was considered necessary to provide the safest method of ensuring that the development did not affect road safety in the vicinity of the site. As noted above, the Reserved Matters application is pending.

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

- 5.1 In the course of the planning application, the applicant has been asked to provide a range of additional information. This has principally been sought in response to the statutory consultation process and the replies from relevant Council departments, including highways, PROW, environmental health, landscape and ecology. The details are set out in the report below.

## **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) (KLP).

### Kirklees Local Plan (2019):

- 6.2 The following policies are most relevant to the consideration of this application:

Policy LP1 Presumption in favour of sustainable development  
Policy LP21 Highways and Access  
Policy LP24 Design  
Policy LP28 Drainage  
Policy LP30 Biodiversity and Geodiversity  
Policy LP32 Landscape  
Policy LP33 Trees  
Policy LP52 Protection and improvement of environmental quality  
Policy LP53 Contaminated and unstable land

### Supplementary Planning Guidance / Documents:

- 6.3 The most relevant SPG/SPD document is the following:

Highways Design Guide SPD (2019)

### National Planning Guidance:

- 6.4 The following sections of the National Planning Policy Framework (NPPF) are most relevant to the consideration of this application:

Chapter 7: Requiring good design  
Chapter 9: Promoting sustainable transport  
Chapter 11: Conserving and enhancing the natural environment

### Climate change

- 6.5 On 12/11/2019 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 predates 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

## **7.0 PUBLIC/LOCAL RESPONSE:**

- 7.1 The application was advertised by means of a site notice and a press notice in the Dewsbury Reporter (11 June 2020) as a major application that also affects a Public Right of Way. It was also advertised by means of direct neighbour notification letters.
- 7.2 The Council has received 91 letters of representation to the application, principally objecting to the development. This includes a letter submitted on behalf of the Oakenshaw Residents' Association. The following represents a summary of the main issues raised by the representations in the objectors' words. It is not a complete replication of the responses, which can be viewed on the Council's website.

### Highway Issues - General

- The current road infrastructure will be insufficient for the size of this development and that the proposed works are not enough to mitigate this;
- Access should be directly from the motorway junction;
- Before Outline Planning Permission was eventually granted by KC on a casting vote, many mitigating measures were put forward in order to enhance the access route into the site. It was therefore assumed by many at the Outline Stage that these mitigating measures would be put in place before the development started, let alone before any construction traffic started rolling into the site. We now have a situation where no conditions have been placed on the off-site highway works until at least half of the site is available for occupation. The access roads and junctions are not suitable for the construction traffic and therefore further conditions should be put in place prior to Phase 1 and 2 to assist in protecting the residents, school traffic and other road users;
- The proposed T-junction at Cliff Hollins Lane/Site Entrance has yet to be the subject of a Road Safety Assessment! This should be carried out before any Phase 1 and 2 approval is granted as it could have serious implications further on down the line;
- It is possible to connect this site directly to Cleckheaton road, avoiding Cliff Hollins Lane and the village of Oakenshaw, by constructing a bridge over the M606. It would mean that the residents of Oakenshaw would not be exposed to a significant increase in road danger. If the developer did build a bridge, then the old sewage treatment site entrance could provide a walking and cycling entrance to the site;
- Mitigating measures should be put in place before the construction traffic enters the site given the nature of the access route
- Strongly ask to search for alternative site entrance points to avoid all the unnecessary hassle the proposal currently presents to all but retain the development. What about an entrance point of the M606?

- Over the years residents have already suffered a massive increase in traffic along the main road. The traffic using Bradford Road/Cleckheaton Road, Mill Carr Hill and Cliff Hollins Lane has gone from moderate to extremely heavy;
- Cleckheaton Road is already busier than it was ever designed to be.
- If an industrial estate is to be built on this site, an alternative infrastructure of suitable roads (wide enough for both lorries and cars alike), needs to be in place away from the village and its school;
- Little concern has been given to the addition of extra vehicles up and down the already overused single track "rat runs" of Wyke Lane, Cliff Hollins Lane and Mill Car Hill Road. These would be used by persons accessing the proposed entrance rather than the already over congested Cleckheaton Road at peak times;
- A638 Bradford/Cleckheaton Road is already well over-used with traffic, including heavy goods vehicles, due to the industrial estate higher up on Dealburn Road already established by Bradford Council on their side of the border;
- The proposed access roads to the development site are wholly inadequate for the anticipated volume and size of vehicles both during construction and post completion;
- The development would cause an increase in traffic, many of the vehicles being vans/lorries and HGVs accessing the industrial park, and it is anticipated that much of this traffic would be seen during school hours;
- Sat Navs often bring articulated vehicles off Bradford Road and onto Mill Carr Hill Road as a cut through to the Euroway Industrial estate. The current no HGV signs are ignored and the community regularly see articulated vehicles making the turn into Cliff Hollins Lane, then reversing back onto Mill Carr Hill Road to turn around. By changing the right of way at the Mill Carr Hill Road/Cliff Hollins Lane junction, such vehicles would be 'encouraged' to turn into Cliff Hollins Lane (following the road around per new layout) then realising their error, would still reverse back into Mill Carr Hill Road towards school in order to turn around;
- The development will cause a massive increase in current traffic numbers and this will impact the local community significantly through road safety and pollution;
- There are already queues at Chain Bar. This proposal will have little or no impact on the delays experienced at this junction currently, and this is not taking into account the extra vehicles which will be using this junction on leaving the development;
- The only access to this site from the M606 will be a mini roundabout right next to a primary school;

- The planned development is intrusive of the community, including isolating a small number of houses and heavily increasing the amount of traffic;
- The traffic levels along Bradford Road are already over capacity for the road;
- The proposed access route approved at the outline planning stage was a travesty of justice for the Oakenshaw community. There was no thought in it, apart from the financial benefit;
- The whole proposal is avoidable because they could build an access road via the M606;
- Consideration should be given to using traffic lights at the main junction for instance, at Mill Car Hill Road joining Bradford Road or traffic lights either end of Bradford Road;
- Bradford Road is already as busy as the M606 due to numerous heavy goods vehicles travelling to and from Low moor industrial estate and the chemical works, which are approx. 1 mile further along Bradford Road;
- There are already high volumes of commercial traffic through a Class C road through Oakenshaw, which virtually becomes gridlocked if the M606 is closed or itself is gridlocked;
- The proposed access is not realistically possible as the turning circle for long articulated vehicles would be too tight and result in traffic snarling up;
- A resident notes that they raised objections to this application back in 2016 on the grounds of safety and the impact on Oakenshaw, particularly in relation to inappropriate access to the site creating significant risk to local residents and school children. In their view, there has been no substantial change to mitigate these risks;
- Whilst the objector acknowledges that a brownfield site near the motorway is, in many ways, ideal for this sort of development, the access requirements for a sewage works are completely different to the access requirements for the proposed development. The sole current access point is from Cliff Hollins Lane. To the East Cliff Hollins lane is a minor country lane that already carries far more traffic than it should. To the west, Cliff Hollins Lane provides a route to M62; unfortunately this route includes a primary school and a church;
- Under what logic would the Council permit the development of a completely car dependent development that makes it more dangerous (and less appealing) for children to walk to school?

- If a bridge over the M606 cannot be provided, a kerb segregated cycle track running through the development site, past the primary school and along Cleckheaton road through Oakenshaw to the railway station. Otherwise the Council are committing children (and adults) to cycle on roads used by HGV's, which is unsafe;
- The proposed land for the car park is a flooding area, this regularly floods so is not suitable for a car park;
- The infrastructure of the village is not prepared for a surge in increased traffic. The junction at chain bar roundabout currently experiences periods of long delay at several times of the day. The junction onto Mill Carr Hill also has a continuous flow of traffic waiting to turn onto Cleckheaton Road. This road is not wide enough to create a safe and sufficient junction with two lanes;
- Given the increased traffic on Bradford Road, this will without doubt lead to increased road safety issues. There have historically been accidents along Bradford Road, particularly near the junction with Wyke Lane. This is predominantly due to the volume of traffic coming from all four junctions (both directions on Bradford Road, Wyke Lane and Mill Carr Hill Road);
- One resident cited that they were not against the development itself but an alternate access point needs to be found;
- Some residents have experienced over 1 hour waits to get onto Chain Bar first thing in a morning (between 7am and 9am);
- To create 500 jobs and expect all employees to get to work using Chain Bar roundabout with no traffic lights on an already exhausted junction is an accident waiting to happen;
- There are no traffic lights on Bradford Road to access Chain Bar, this is a total nightmare especially at peak times, which will get worse with this development;
- All of these industrial sites have problems with parking, where HGV's park in private roads when not allowed on site;
- There is only one entry and egress point to the site itself which surprises me, given these days of Health and Safety; who is to say that an accident may occur at the entry point, as so often happens. Additionally with the point being adversely cambered. Such an event may leave the site unprotected and query if West Yorkshire Fire and Rescue Service have approved this?
- Leaving the site in an emergency some vehicles will be able to exit via Cliff Hollins Lane but any vehicles over 7.5t will be unable to do so as the road is quite unsuitable for HGVs and has a limit of 7.5t too.



## Mill Carr Hill Road/Cliff Hollins Lane/Bradford Road specific issues

- The Bradford Road/Mill Carr Hill Road is already operating at capacity without the additional site traffic;
- Mill Carr Hill Road and Cliff Hollins Road are country lanes and nearby junctions are often extremely busy as it is;
- The junction between Mill Carr Hill and Cliff Hollins Road is far too narrow to accommodate the type of traffic envisaged serving new warehousing;
- Mill Carr Hill and Cliff Hollins Lane are regularly used by motorists trying to avoid the long heavy traffic queuing at Chain Bar roundabout, to access the M606 or the M62 to Leeds. From about 7am in the morning, all three roads and their junctions within Oakenshaw are an absolute nightmare;
- Cliff Hollins Lane cannot take the volume of traffic currently and this industrial estate will exacerbate this and cause major issue;
- The proposal for a roundabout on Mill Carr Hill (where the Cliff Hollins Lane junction is now) meters away from the schools entrance is a bad idea. There seems to be little thought and regard into the safety of the children, parents and staff attending the school or visiting the woodlands park;
- The impact of this proposal on Cliff Hollins Lane from the bridge upwards is not clearly visible in any of the documents submitted for this application;
- Traffic coming down Cliff Hollins Lane from East Bierley will come to a T junction and will need to stop to allow vehicles to enter/exit the site as they will have right of way. This will mean that traffic will have to queue on a single file bridge at Cringles, yards from the site entrance, the traffic then backing up past the 3 houses where the road is narrow, on a hill with a blind bend;
- The road is narrow through Cringles. Two cars are unable to pass without one stopping to allow the other to pass through;
- There is a significant increase in traffic on Cliff Hollins Lane at in peak times or at times when there are incidents on the M62 or M606, as the lane is used as a rat run. The change in right of way will cause significant traffic issues and gridlock for those using the road in the Cringles area during these times;
- The proposal does not consider the increase in traffic anticipated from the development – not all traffic will enter/exit heading towards Mill Carr Hill Road;
- The hill is treacherous during winter months, particularly around the junction of Mill Carr Hill Road and Cliff Hollins Lane (where the new road layout is proposed), but also where Cliff Hollins Lane falls down towards where the access to the development would be as these roads are very exposed at these points;

- Road layout just before Woodlands School (Mill Carr Hill road sweeping directly onto Cliff Hollins Lane) is a sharp right turn at the bottom of a hill. To create a right of way with such a sharp turn without the need to stop at this point in the road, next to a school playground, must be questioned and considered a dangerous proposal;
- The Mill Carr Hill Road and Bradford Road junction is already very busy and dangerous without any additional traffic being added;
- Cliff Hollins Lane is not suitable for larger vehicles and it is already used as a cut through;
- Additional HGVs travelling along Mill Carr Hill will undermine the construction and foundations of the motorway bridge, given the extra traffic that will over time ensue. This is an issue for Highways England;
- There have also been numerous serious accidents on these small narrow roads including lorries crashing and demolishing walls, vehicles overturning on the small bends, lorries becoming trapped because the roads are not wide enough for them to pass safely;
- Mill Carr Hill Lane and then Cliff Hollins Lane are already wearing away due to heavy use of HGV wagons and are constantly needing to be patched up due to dangerous potholes appearing;
- The development will add to the traffic on Bradford Road, which already feels like a motorway;
- The traffic will pass people's homes, a nursery and church of St Andrew's, bus stops, Pelican crossing and school at Woodlands. With parents taking the children via the pavement (walking), young mothers with their prams and infants to the nursery, older people walking to the bus;
- There have been many accidents at the Mill Carr Hill Road junction;
- The junction of Mill Carr Hill Lane with Cleckheaton Road on a bend is a recipe for disaster. Wyke Lane is already a rat run from Whitehall Road to avoid Chain Bar so additional traffic to this site by workers will inevitably increase this traffic flow;
- The entry and exit from Mill Carr Hill Road onto Bradford Road at the junction is at capacity already and a further study is required to address this point. Waiting traffic exiting and entering Mill Carr Hill from Bradford Road will not have sufficient width to allow for running traffic. Additionally there is a clear adverse camber at the point of turning and has this been mitigated for?
- The road has height and weight restrictions and not designed to be used by HGVs;
- Mill Carr Hill has a low tonnage capacity so it could not be used as an exit route should there be an accident at the bottom;

- Even though the village has 20mph speed humps, which only residents take notice of, it defeats the object of trying to have a safe rural village to live in when there is going to be a large increase in cars/HGV's driving through the village;
- Accidents on Mill Carr Hill Road are regular, although they may not be reported. The footpath in most places is totally unsuitable for walking traffic and 2 vehicles are often not able to pass or have to pull in or go onto pavement;
- Cliff Hollins Lane has many of the problems as stated for Mill Carr Hill Road. Both of these roads already have too much traffic, but the development will mean increased traffic, including HGV's as they will not adhere to signs etc. showing unsuitability. In Bierley there is a development just at the top of Mill Carr Hill Road, off Boy Lane for 160 houses, plus there is a Crematorium to be built - all of this means increased traffic on unsuitable roads;
- Tuning right from Bradford Road into Mill Carr Hill Road is difficult. There is not enough room for a car to wait in order to turn right when a HGV's is coming towards you travelling towards Chain Bar, traffic builds up behind as they cannot pass and with the increased numbers expected this will only get worse.

#### Pedestrian safety

- There is no pavement as the road bends up past Cringles where it is expected that the queueing traffic would be, and the pavement near to the bridge is very narrow. There is no pavement at all on the bridge;
- With no pavement on Cliff Hollins Lane, it is a death trap. Unless the development is going to widen the bridge put in a footpath, speed bumps and reduce the speed limit to 20 miles an hour with camera, it should be halted;
- There are pedestrians of all ages in the local community who use Mill Carr Hill Road, Cliff Hollins Lane and Bradford Road to walk their dogs, take their daily exercise or get to the bus shelters. More traffic is only going to raise more concern for pedestrian safety issues, putting at risk the lives of members of the community.

#### Impact on Woodlands School

- Risks posed, both in terms of traffic and air quality, to the nearby Woodlands School;
- Mill Carr Hill Road is the children's principal walking route to Woodlands Primary School. These plans present an obvious hazard to those making their way to school;
- The amount of traffic that will now be directed to the area right outside the school would create a risk that will affect the lives of the children;

- There is a pre-school at St. Andrews Church Bradford Road, Oakenshaw and also Woodlands first school, both of which will be affected by the pollution of extra vehicles using Bradford Road;
- Woodlands School is already in a vulnerable position in terms of air pollution and this would increase the hazard;
- During school drop off and pickups there are cars parked legally on the roads near the school but with commercial traffic this could potentially be extremely dangerous especially with children going to and from a primary school;
- There is a school on Station Lane, Birkenshaw and the lorries from TLC and the Speedy bake are not allowed to come down this road during school times;
- There is a concern about the car park for the school. A resident saw a stork in the proposed area where the marsh is. (NB The car park is within Bradford's District and not within the remit of Kirklees or within the scope of this application);
- The area where the proposed car park and the land at the side of the works floods during heavy rain this will lead to problems both for the school and access to the site. (NB As above, the car park is within Bradford's District and not within the remit of Kirklees or within the scope of this application);
- Woodlands Primary School is directly opposite the site. Many families in Oakenshaw and Woodlands have children who attend this school, with either parents or carers walking their children to school or dropping them off. There is obvious concern for the safety of the community in being able to safely drop off and pick up children from the school, not forgetting members of staff at the school being able to safely get to work;
- The location of the school is completely ignored in this proposal;
- Mill Carr Hill Road is the children's principal walking route to Woodlands Primary School, has always been and we hope it will continue to be so but this presents an obvious hazard to small children who cannot always be relied upon to follow road safety. Has a full safety audit been performed here, taking into account the views of the School?

### Flooding

- Surface water running away from the development towards the Hunsworth beck may cause back flooding towards the bridge at Cringles. The developer has previously failed to acknowledge the major issue experienced by the houses at Cringles in periods of prolonged rainfall or when flash floods occur;
- The amount of water draining from the development will cause further downstream issues with increased flooding.

### Public Right of Way

- Many people come to use the public footpath through to Hanging Wood by car. They park their cars on the road or on the grass verge where the proposed entrance to the development is situated. It would appear that the developer has included plans to maintain the footpath, but yet has not made any provision for parking for those wishing to travel to it by car. Visitors to Cringles often park here too and no provision has been made;
- The public footpath along the access road leads to the woods beyond, which is the only beauty spot within the Kirklees/Oakenshaw boundary. The developer's plans make no mention of provision for this public footpath to the beauty spot there is concern that residents will lose this facility.

### Other road users

- The increase in traffic as a result of the proposed development will increase road safety issues for all other road users, including cyclists and horse riders given the number of liveries and riding schools in the area. It could discourage them from using the area, so impacting the local businesses and wellbeing of the community;
- There are 2 livery yards a few hundred metres from the school housing a large number of horses. Equestrians ride daily up and down both Mill Carr Hill and Cliff Hollins lane, already running the gauntlet of traffic, risking their safety and that of their horses.

### Noise, Air Quality and Pollution

- More and more trucks from the industrial estates are using Cleckheaton Road at all hours of the day and night. The current air and noise pollution in the village is undeniably worse than it has ever been;
- The massive increase in vehicles in the area because of the development will elevate the air pollution and noise levels, air pollution levels already being at upper limits;
- Noise and light pollution from the proposed industrial units;
- The group of houses at Cringles is within a dip, which creates a natural amphitheatre. The sensors that were used for the noise assessment submitted previously did not take account of the dip;
- This development will exacerbate local air pollution and are in conflict with the objectives of the West Yorkshire Low Emission Strategy;
- There will be a significant number of HGVs that will use the site. HGVs are heavy emitters of air pollution and for future decades will be diesel powered. As a result this will significantly increase the air pollution in the local area;

- Restrictions on the times that HGVs can access the site should be considered - both during construction and when the development is finally in use (no night work) and some sort of baffles - trees, grass banks - to provide some reduction in noise levels when the site is in use;
- Has all hazardous waste been disposed of correctly?
- The extra noise day and night is a concern to all residents in the area;
- The effect on the environment in the area and the adjacent watercourse will be heavily effected have updated surveys been down as a comparison since the enabling works have started.
- Air pollution has already been recorded above the legal limit of 40µg/m<sup>3</sup> at ST Andrews church, Greenpeace recently carried out research and it recorded a high reading of 40,88 µg/m<sup>3</sup>, At these levels they are already failing all government safety guidelines. An increase in traffic will also increase the dangerous air pollutants that the children will be breathing when they walk to school. Have air quality surveys been completed?
- What investigations have been carried out to address the ground contamination? The site is a former sewage works, Sewage cake was taken from the presses by rail to the lagoons/drying beds where the contaminants were stored. The grounds were also used for the storage of sewage, grit and detritus. Various chemicals were used in certain processes;
- Noise and light pollution, present all day and night when in use;
- Concerns about overnight lighting;
- Noise during construction. During the recent works on site, the resident lives approximately 0.5 miles from the site and could hear the heavy machinery;
- Ongoing concerns over the possible contamination of the site, from both the past and present. The Contamination Report only dealt with information relating to the land and there is no documentation relating to the buildings, filter-beds or their contents;
- There is no Waste Disposal or Waste Recovery Plan available for public scrutiny.

### Green Belt

(Members are advised to note that whilst some representations refer to the site's location within the Green Belt, it is not, as explained in the report below).

- The site is partially Green Belt and should be protected;

- To give up so much Green Belt is shocking. Surely this development does not meet the criteria for use of Green Belt land?
- Have the laws regarding Green Belt been followed to the letter?

### Living Conditions

- The building of the industrial estate is in direct view of an objector's home and in their view, it will affect the attractiveness and selling price of our house;
- All new developments should be camouflaged and out of site, with hills of tall trees (fruits and evergreens), a lake and nature trails;
- The buildings should blend into the landscape and not be seen by the naked eye, with a natural living roof on it;
- The Council has a "Duty of Care" for the residents of Oakenshaw within the boundaries of Kirklees council, the "Heath & Wellbeing" of the people must be at the top of the list;
- What will the building or development look like - initial drawings show what can only be described as a super-warehouse making a massive impact on the area of green fields and woodland?

### Ecology

- The area of Hanging Woods, which is a Site of Wildlife Significance (to the east of the site) provides habitat for many animals which have thrived as the site has been disused (up until recently), therefore providing an undisturbed environment for them to breed and live in. This will be impacted upon by the proposal;
- This area is rich in wildlife which should not be allowed to be driven away by profit-seeking businesses who should be made to fill the alternative sites that are available first, before building more unnecessary warehousing;
- Detrimental effects on the wildlife and plant health in the adjacent woodland;
- The government has committed to planting millions of new trees to slow down climate change and have a positive impact on the environment. Planting hundreds of trees on that land would be better than the current plans;
- The area earmarked for the car park is rich in wildlife, with bats, rabbits, water birds, woodpeckers and a heron (NM this is within Bradford District)

### Employment

- Employment benefits are noted but the potential for new 'jobs' in our area may not be as 'rosy' as originally expected. It is anticipated that the employment figures will therefore only be moving from one area to another;

- It is unnecessary given the large number of unused units in the surrounding areas;
- Oakenshaw is already surrounded by industrial estates and to add another will surround the village on 3 sides;
- No development should be allowed without guarantees of long term jobs or apprenticeship for the local people;
- Oakenshaw village is surrounded by industrial units as well as 2 large chemical companies in the vicinity;
- There are already a lot of empty units in the close vicinity on the Euroway with direct access from the M606;
- The village is already surrounded with Spring Ram, Solenis and Nufarm, not to mention the M606;
- The village is not known to have an unemployment problem, therefore any “employment opportunities” will not be for us, but for other people being brought into the area, further adding to the traffic problems.

#### Procedural

- Plans and informing the residents who will be affected by the build should be on a notice board in large print as many still do not have access to a computer;
- Mounds of earth were noted and it is queried whether the planning has been finalised;
- The previous concerns and fears the residents of Oakenshaw and Lower Woodlands have voiced have had no effect to the decision Kirklees council has made;
- As a long term resident of the village, the resident feels that because the site is on the border of Kirklees/Bradford, this is the reason that this proposal is being agreed, but at a detriment to residents of Lower Woodlands and Oakenshaw;
- Bradford Council voted against the (outline) proposal and many of the people who will be negatively impacted by this development live within the Bradford district (N.B Bradford Council did not object to the outline planning application in principle as confirmed in their letter dated 3<sup>rd</sup> August 2016);
- Previous concerns and fears the residents of Oakenshaw and Woodlands have voiced have had little effect to the decision Kirklees Council has made;



- The community is of the opinion that the car park should be dealt with at Reserve Matters Stage by Bradford Council before this application is considered by KC to ensure that it has the appropriate permissions in place. This will avoid the farcical situation at the Outline Stage where KC forced the hand of Bradford Council in accepting the building of a car park that neither the school nor the Council wanted.
- Why has the development already begun? Surprised that enabling works have started without full permission.

#### Other

- House prices will decrease as people won't want to buy a house close to a big development and the issues of traffic/noise that comes with it;
- The water works site should be preserved and changed into a country park for the residents to enjoy;
- With any landscaping, the resident would not like any further trees planted outside the back of bungalows because their light is already limited due to the trees lining the M606;
- Additional traffic will have a knock-on effect to the passing trade of the few shops left in the village, which have halved in the last 20 years;
- The proposals are not in the interests of the local community;
- The Phase One development is situated within COMAH Band C. Residents in Oakenshaw remember the major chemical fire at nearby Alloid Colloids (now Solenis) in the early 1990s, which closed the village and most of South Bradford for a considerable time, resulting in new safety measures for the village. There is another chemical plant at the top of Wyke Lane. Nufarm also have incident protocols, action plans and siren alerts too. There is a potential for the high pressure gas main bisecting the site to cause a similar incident;
- The foundations of the Motorway Bridge will require clearance from Highways England to ensure that HGVs travelling along Mill Carr Hill are not undermining the construction of the bridge, given the extra traffic ensuing;
- Concerns raised about how the site was allocated;
- Since the outline planning was approved, there have been substantial changes to the original Planning Statement. It is clear, despite the overwhelming concerns of the Oakenshaw community that they have not been fairly represented.

7.3 Councillor Sarah Ferriby (Wyke Ward Councillor, City of Bradford MDC) has objected on the following grounds:

- Highway safety due to the unsuitable access/egress and associated roads Bradford Road junction, Cliff Hollings Lane, Mill Carr Hill junctions, which are unsuitable for high volumes of HGVs;

- Light goods vehicles and additional cars, which are linked to the reserved matters application in Kirklees, that will lead to a detrimental impact for both residents in the village of Oakenshaw , pedestrians, school children and local road users in and around Woodlands with extended impacts on parts of Low Moor and Wyke and in to Bierley;
- Impacts upon the Woodlands School with an increase in traffic in the area on a road that is already a busy through road;
- The proposed re-engineering of roads, widening corners some of which fall out of this applications remit are a material consideration in her view when looking at accessing the road network in this area in very close proximity to the school and the proposed pick up drop off/ car park which again is detrimental to highways safety creating conflicts between Traffic and pedestrians which are mainly school children and their parents;
- An in-depth Traffic impact survey should be carried out for the wider Bradford area which includes those roads mentioned above, as there are already high numbers of pedestrians and road users traveling through the village in both directions via Cleckheaton /Bradford Road;
- If there is an incident on the motorway. this in turn creates rat running both up Mill Carr Hill and Cliff Hollings but also Wyke Lane and these roads are unsuitable for excessive volumes of traffic and are totally unsuitable for HGV'S and the like;
- An additional access and egress point should be looked in to as in a very short period of time you could and will end up with access to the site being completely inaccessible. Therefore, the Health and Safety issues regarding this site have not been fully addressed.

7.4 A joint letter has also been received from Councillors of Tong Ward (Bradford MDC) – Councillor Alan Wainwright, Councillor Michael Johnson and Councillor Kausar Mukhtar. They object on the grounds of highway safety and raise the following specific issues:

- No mention of a traffic survey within the application;
- No mention of how many vehicles will be driven on site by employees of companies that occupy the site;
- Concern about the narrowness of Mill Carr Hill Road that starts in Bierley and ends in Woodlands (Tong Ward)
- The proposals to widen the road near the Woodlands Primary School so that articulated waggons can turn into and out of Cliff Hollins Lane, where entrance to the site is proposed, are fraught with danger to the young children and Parents/Guardians escorting the children to and from the School;

- An in depth traffic impact survey to ascertain current volumes of traffic on the Bradford South roads should be undertaken, These are Mill Carr Hill Road, Cleckheaton Road and the adjoining roads within the boundaries of Kirklees Council. Cleckheaton Road and Mill Carr Hill Road that join together at the Ward Boundaries of Tong and Wyke in Bradford and Cleckheaton in Kirklees. The proposed volumes of traffic included in the survey report should be considered before any decision is made by the committee.

7.5 An objection has also been received from Judith Cummins MP for Bradford South. Whilst acknowledging that the site is within Kirklees, in her view, the access and egress will be via her constituents of Bradford South and it would have a negative impact on their lives, particularly those living in Lower Woodlands and Oakenshaw. She provides the following additional comments:

- The access roads and junctions are not suitable for a development of this size and the mitigation works proposed are not sufficient to overcome her concerns;
- Cliff Hollins Lane and Mill Carr Hill Road are country lanes and not suitable for carrying HGVs. Mill Carr Hill Road is already marked as unsuitable for large vehicles;
- The entry and exist for the site is planned from Mill Carr Hill Road onto Bradford Road. Turning right from Bradford Road into Mill Carr Hill Road is hazardous and not suitable for HGVs;
- Even though it is not planned for HGV access from different routes, it will happen from time to time and will make these roads more hazardous;
- Concerns about the deterioration of the air quality at Woodlands School. The area already suffers from very poor air quality and having HGVs in close proximity of the school at the start and end of each day will be further detrimental to this problem, as well as posing a serious traffic hazard.

#### Ward Members

7.6 Ward Members were consulted on the proposal by email dated 5<sup>th</sup> June 2020. No specific representations to the application have been received.

### **8.0 CONSULTATION RESPONSES:**

#### **8.1 Statutory:**

**KC Highways:** Final technical details of the access road and Road Safety Audit (RSA) are currently being considered following a request for further information from KC Highways. The RSA covers the internal access road and the site entrance. Their final response will be provided in the Committee update report.

**Highways England:** No objection

**Environment Agency:** No objection on the basis that EA interests are covered by conditions imposed on the outline planning permission.

## 8.2 **Non-statutory:**

**KC Landscape/Trees:** No objections.

**KC Environmental Health:** No objection subject to conditions (these are already attached to the outline).

**KC Crime Prevention:** No objections subject to measures being implemented in line with Crime Prevention through Environmental Design (CPTED) guidance.

**KC Ecology:** No objection.

**PROW:** Awaiting comments on the final scheme that has been prepared following direct discussions with PROW Officers. PROW Officer comments will be provided in the Committee update report.

## 9.0 **MAIN ISSUES**

- Principle of development;
- Access;
- Landscaping;
- Scale and Appearance;
- Layout;
- Discharge of the requested conditions;
- Other considerations;
- Response to representations.

## 10.0 **APPRAISAL**

### Principle of development

- 10.1 This application seeks Reserved Matters approval for Phase 1 of the development of the former North Bierley Waste Water Treatment Works in accordance with the outline planning permission 2016/92298. Phase 1 relates to the construction of the access road through the site and the formation of plateaued, remediated and serviced development plots with associated landscaping. Consequently, this application seeks approval for matters of access, appearance, scale, landscaping and layout as it relates to Phase 1.
- 10.2 Within the Kirklees Local Plan (February 2019), the site is part of Employment Allocation ES7: Former North Bierley Waste Water Treatment Works. It is identified for employment use with an indicative capacity of 35,284m<sup>2</sup>.
- 10.3 In approving its allocation for employment use, the Kirklees Local Plan Inspectors' Report, published in January 2019, noted that whilst the land was in Green Belt (at that time), it comprised previously developed land and was contained by woodland and slopes to the east and by the M62/M606 to the west and south so that it had a limited relationship with the wider countryside. The Inspector accepted that there were exceptional circumstances to justify

the removal of the site from the Green Belt. It was also recommended that the site capacity be modified to reflect the outline planning permission, which it subsequently was, as now reflected in Employment Allocation ES7.

- 10.4 The outline planning permission was approved with all matters reserved. However, it clearly established the maximum quantum of development deemed acceptable on this site. The Report to the 8<sup>th</sup> March 2018 Committee confirmed that the application related to the provision of 35,284m<sup>2</sup> of B1, B2 and B8 use.
- 10.5 This extent of development formed the basis of the outline application and the foundation for the comprehensive range of supporting documents and the Environmental Impact Assessment that were submitted, assessed and approved as part of that permission. These included:
- a) Transport Assessment (TA);
  - b) Air Quality Assessment;
  - c) Flood Risk Assessment;
  - d) Travel Plan;
  - e) Phase II Geo-Enviro Site Investigation ;
  - f) Noise and Vibration Report;
  - g) Details of Highways Mitigation Work;
  - h) Road Safety Audit (Bradford Road Arm of M62 Junction 26 Roundabout, Mill Carr Hill / Bradford Road Junction mitigation and Mill Carr Hill Road/Cliff Hollins Junction).
- 10.6 The TA submitted and considered at outline stage incorporated an assessment of baseline conditions, including from manual traffic counts and trip generation. Based upon 35,284m<sup>2</sup> of B1, B2 and B8 uses and a split of 2,648m<sup>2</sup> of B1 use, 24,478m<sup>2</sup> of B2 use and 8,159m<sup>2</sup> of B8 use (the worst case scenario with 75% being B2), it identified that the total number of two-way vehicle trips associated with development proposals was predicted to be 186 during the AM peak and 151 during the PM peak.
- 10.7 In addition, as part of the outline application, the applicant was asked to consider a range of alternative access points to the site. These included an access from the M606 via a new junction onto the Motorway, an access from Bradford Road via a new bridge across the M606 and an access directly to and from the circulatory roundabout at Junction 27 of the M62. These options were discounted by the applicant for a range of technical/viability reasons. Kirklees Council had undertaken a similar review of access options as part of the Local Plan process and reached the same conclusion.
- 10.8 All these options were set out in the Report to the KC Strategic Committee on 8<sup>th</sup> March 2018 pursuant to the outline application. At that Committee, Members accepted the Officer recommendation to support the means of access via Mill Carr Hill Road & Bradford Road subject to suitable mitigation. These mitigation works were secured as part of the S106 agreement pursuant to the outline planning permission to provide the following off-site highway works approved:
- Junction improvements at Mill Carr Hill Road/Bradford Road junction to include the widening of Mill Car Hill Road to provide a right turn facility at the junction, new pedestrian footways and a pedestrian refuge.

- The realignment of the Car Hill Road/Cliff Hollins Lane junction to give priority to vehicles travelling towards Cliff Hollins Lane and the site, as well as new pedestrian footways and a pedestrian refuge.
- The re-alignment of Cliff Hollins Lane to provide a right of way for traffic entering the site.
- Restrictions preventing 7.5 tonne lorries on Cliff Hollins Lane and Wyke Lane to prevent HGVs accessing the development from unsuitable roads.

10.9 The Section 106 requires these works to be completed prior to first occupation of any building on the site. In addition, a condition was imposed on the outline permission (Condition 20) restricting the amount of development (no more than 17,642m<sup>2</sup>) that can be constructed on site until specific works are undertaken. These relate specifically to the Bradford Road approach to the M62 J26 (Chain Bar), the improvement scheme to remove M62 westbound to M606 northbound traffic from the M62 Junction 26 Chain Bar roundabout circulatory carriageway (to be implemented by Highways England).

10.10 The outline planning permission has therefore already established the following:

- The principle of employment development on this site within Use Classes B1(c), B2 and B8 to a maximum of 35,284m<sup>2</sup>;
- An acceptance of the impacts of the development up to 35,284m<sup>2</sup> with regard to matters such as air quality, noise, traffic impact and ecology. Such matters are further controlled by means of planning conditions on the outline permission and within the S106 agreement.
- The principle of the site access as indicated within this application to include an amendment to the priority of Cliff Hollins Lane at the site access so that the development traffic has right of way.

10.11 Having been considered and determined as part of the outline planning permission, no further assessment of the principle of development or the matters above is appropriate or necessary as part of this application. This Reserved Matters is compliant with the outline permission and the future development will, in any event, be subject to the conditions set out in the outline permission and the S106 legal agreement.

10.12 To summarise, this application is, therefore, a Reserved Matters submission to, in effect, discharge Conditions 1-3 of 2016/92998. The considerations relate to matters of access, appearance, scale, landscaping and layout for Phase 1 only and the discharge of the conditions set out above. This Reserved Matters development is in accordance with Site Allocation ES7 and the outline permission and consequently, it is acceptable in principle.

### Access

10.13 Policy LP21 of the Kirklees Local Plan advises that proposals shall demonstrate that they can accommodate sustainable modes of transport and be accessed effectively and safely by all users. This reflects guidance within the National Planning Policy Framework (the Framework), which states at

Paragraph 108 that in assessing application for development, it should be ensured that there are appropriate opportunities to promote sustainable transport modes, safe and suitable access to the site can be achieved for all users and any significant impacts from the development on the transport network can be viably and appropriately mitigated. Paragraph 109 confirms that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 10.14 Phase 1 relates to the construction of the access road and the formation of plateaued, remediated and serviced development plots only. With the exception of temporary construction traffic, it would not of itself be a generator of traffic onto the highway network in the long term as no buildings are proposed at this stage.
- 10.15 With regard to access for Phase 1, this Reserved Matters submission does not change the intention approved by the outline permission to provide the access via an amendment to the priority of Cliff Hollins Lane at the site entrance so that the development traffic has right of way. This was agreed on the basis of 35,284m<sup>2</sup> of B1, B2 and B8 uses and it is unchanged by this application. As such, the principle of the access remains acceptable. A footway would be installed onto the southern side of the access road to connect into the existing footway on Cliff Hollins Lane. This access is the subject of a Road Safety Audit, which will also cover the internal adoptable estate road. The RSA is presently being considered by the Council's Highways Development Management (HDM) team and their response, as well as the need for additional conditions, will be set out in the Committee update.
- 10.16 In terms of the positioning and treatment of the access and circulation routes within the site, the spine road is designed to run parallel with the existing gas pipelines that runs through the site. It would be positioned between development plateaus that would be created on either side. The access road would extend to approximate 7.5m in width to be constructed in asphalt. It would include passing places at regular intervals. An asphalt footway of approximately 2m would be built on either side. Along the route of the existing access, the grass verge that presently exists would be retained. Whilst there is no objection to the principle of the spine road and its position within the site, specific construction details of road gradients, vehicle tracking in relation to articulated vehicles, refuse vehicles and emergency vehicles are presently being reviewed and a final response from the Council's HDM will be set out in the Committee update.
- 10.17 Overall, however, the positioning and treatment of the access road within the site and the means of its construction is in accordance with the outline planning permission and it will fit into the surrounding highway network accordingly. In principle, it would therefore comply with the requirements of Policy LP21 and guidance with the Framework.

#### Appearance and Scale

- 10.18 As set out at Paragraph 3.9, no buildings are proposed within Phase 1. The first buildings will come forward as part of Phase 2. Accordingly, no details are required as part of this Phase 1 Reserved Matters submission and no further assessment on appearance and scale is necessary.

## Landscaping

- 10.19 Policy LP32 of the KLP requires development proposals to take into account and to seek to enhance the landscape character of the area.
- 10.20 For this application, Phase 1 will include a re-grading exercise in order to create the development plateaus for future phases. As existing, the site gently slopes down from the north to the south. As part of the landscaping proposal for Phase 1, as detailed at Paragraphs 3.10 and 3.11 above, the works will therefore involve both cutting into the existing site and filling other parts of the site in order to create development platforms. These engineering operations will vary with 'fill' levels of between approximately 0.7m and 4m at the maximum whilst cutting into the existing landscape by up to 3.3m.
- 10.21 In terms of the effect of these earthworks on the surrounding area and existing properties, the ground level of the existing access road from Cliff Hollins Lane, which is closest to existing residents, will remain unchanged. Taking a north-west line across the site, the ground levels for the next 50m will also remain largely the same. Consequently, the earthworks being undertaken are well within the site and away from these residential properties. The greatest extent of fill would be undertaken at a distance of approximately 120m from the end of the access road for a length of approximately 140m (the location of a future phase). The second area of fill along this axis would be at a distance of approximately 320m from the end of the access road for a length of approximately 180m (also a future building phase). The most significant fill is towards this southern end, closest to the boundary of the site towards the M62.
- 10.22 On an east-west cross section, the plans indicate that the development platforms will be mostly cut into the existing landscape sitting at lower levels than existing. Properties to the west are, in any event segregated from the site by the M606 whilst those to the east along Cliff Hollins Lane are separated by farmland that broadly slopes up from the site. Within these contexts, the proposed earthworks are considered acceptable.
- 10.23 The landscape proposals for Phase 1 include the removal of seven trees and one tree group comprising the following as set out in the submitted Arboricultural Impact Assessment and Method Statement: T6 (Goat Willow, low quality); T7 (Hawthorn, moderate quality); T8 (Hawthorn, moderate quality); T9 (Hawthorn, moderate quality); T10 (White poplar, low quality); T11 (Hawthorn, low quality), one tree for the Mill Carr Hill/Bradford Road works T15 (Cherry moderate quality) and tree group G9 (willow, poplar, hawthorn). The removals are necessary to facilitate the construction of the access road and re-profiling of the site. It is noted, however, that no hedges are expected to be removed for Phase 1.
- 10.24 To compensate, as part of Phase 1, the scheme would introduce new native species tree planting along the access road as well as a group of trees clustered around two water attenuation basins at the entrance of the site. This new planting would soften the appearance of the access, which is also a public right of way, and also, provide some additional screening of the development from Cliff Hollins Lane. Further landscape proposals would be sought as part of future phases in association with specific plots.



- 10.25 The Council's Tree Officer has confirmed that the proposals are acceptable, subject to a condition that Phase 1 is completed in accordance with the advice and directions (recommendations) contained within the Arboricultural Method Statement. The landscaping treatment for Phase 1 is therefore considered to sufficiently protect the amenities of the site and the surrounding area and enhance it as far as is practicable for this first phase. On this basis, the reserved matter landscaping details for Phase 1 are considered acceptable in accordance with Policy LP32.

#### Layout

- 10.26 Policy LP24 of the Kirklees Local Plan advises that good design should be at the core of all proposals in the district. As there are no buildings within Phase 1, the assessment of layout in this phase relates only to the way in which the routes through the site and the development plateaus are laid out site within the site and their relation to buildings and spaces outside the development.
- 10.27 The access road would run centrally through the site to facilitate the creation of two development plateaus to the east and west of it, from which individual access points to the future development plots can be taken. At this stage, three development plots are envisaged, one to the west of the access road and two to the east.
- 10.28 The applicant advises that this layout is principally a consequence of having regard to the site constraints. The access road follows the route of an existing gas pipeline and the development plots have regard to other on-site constraints, including drainage easements and mineshaft locations.
- 10.29 In terms of the relationship to the surrounding area, the development plateaus to be created as part of the layout of Phase 1 are located well within the site. On the submitted layout plan, the perimeter of Phase 4, which is closest to Cliff Hollins Lane, is approximately 140m from the nearest residential properties. It would also be over 70m to the properties across the M606 on Bradford Road. It is a well contained site and the landscaping secured as part of this Reserved Matters submission will also ensure that the development plateaus sit comfortably within the site. Consequently, it would have an acceptable relationship within the surrounding landscape and existing buildings. For these reasons, the layout of the access road and development plateaus that forms this Phase 1 application are considered to be acceptable in accordance with Policy LP24.

#### Discharge of conditions

- 10.30 Approval is also sought to discharge six conditions pursuant to the outline planning permission. These conditions are worded in such a way that they require the detailed plans and particulars of the Reserved Matters to include these details. These are considered below.

#### Condition 6 (Biodiversity Enhancement Management Plan)

- 10.31 Policy LP30 of the Kirklees Local Plan states that the Council will seek to protect and enhance the biodiversity and geodiversity of Kirklees. Development proposals will therefore be required to result in no significant loss or harm to biodiversity in Kirklees and to provide net biodiversity gains where opportunities exist.

- 10.32 The BEMP submitted as part of this application addresses biodiversity enhancement across the entire site with particular management prescriptions for areas of retained natural habitat and new features to support biodiversity created through development. In response to the specific requirements of Condition 6, it provides the following details:

Description and evaluation of the features to be managed.

- 10.33 The existing site includes a strip of pasture and the former water treatment works on the outskirts of Cleckheaton, adjacent to the junction of the M62 and the M606. It acknowledges the potential for significant features of likely wildlife value in the wider areas include Hanging Wood, along the eastern boundary of the site. Within the site, it clarifies that based upon the summary findings from all ecological surveys of protected species and designations for the site, much of it comprises areas of low distinctiveness habitat, which have value to site based wildlife. It does, however, present opportunities for enhancement in key locations.

Ecological trends and constraints on site that might influence management.

- 10.34 The BEMP acknowledges that whilst no protected species have been identified on the site, it adjoins Hanging Wood, which is a Kirklees Site of Wildlife Significance. It therefore states that the development will need to provide appropriate vegetation and habitat enhancement to its eastern boundaries to provide a buffer to the KWS.

Aims and objectives of management.

Appropriate management options for achieving aims and objectives.

Prescriptions for management actions.

Details of initial aftercare and long-term maintenance.

Details of the body/ organisation responsible for implementation of the plan.

Details for on-going monitoring and remedial measures.

- 10.35 The BEMP confirms a range of specific aims of management to protect and enhance the biodiversity of natural habitats that are present, and create new habitat features that improve the ecological value to local wildlife. These include establishing target sown and planted habitats for specific species, enhancing the ecological function and habitat quality of the Hunsworth Beck corridor, new wildflower grasslands to the west of the existing access road, native hedgerow management, features for bats, birds (boxes), hedgehogs (refuges) and otters (1 holt). It details management options and how the specific measures will be managed and monitored in both the short-term and long-term.

- 10.36 The condition requires that the approved plan and particulars are implemented in accordance with the approved details and timescales, which are clearly set out in the BEMP. The Council's Biodiversity Officer has confirmed that the proposals within the BEMP in relation to Phase 1 are supported. It is recommended that a condition be attached that all works and subsequent monitoring are to be undertaken in accordance with the approved BEMP, including the installation of habitat boxes etc. However, this is already required by Condition 6 in any event such that a specific condition attached to Phase 1 is unnecessary.

- 10.37 Overall, the BEMP is sufficiently detailed to address the requirements of Condition 6 as it relates to Phase 1. It is therefore considered to meet the objectives of Policy LP30 and it is recommended that Condition 6 be discharged for Phase 1. This is subject to advice that to secure full compliance with Condition 6, the development must be implemented in accordance with the approved details and timescales pre, during and post construction as set out in the BEMP prepared by Brooks Ecological (Report Ref: ER-4003-02.3) received 1<sup>st</sup> July 2020.

Condition 17 (Site investigations)

- 10.38 Policy LP53 of the Local Plan confirms that where there is evidence of contamination, measures should be incorporated to remediate the land and/or incorporate other measures to ensure that the contamination/instability does not have the potential to cause harm to people or the environment. Such developments which cannot incorporate suitable and sustainable mitigation measures which protect the well-being of residents or protect the environment will not be permitted.
- 10.39 In this case, both Phase I and Phase II contaminated land reports were submitted and considered as part of the outline planning permission. These determined that parts of the site are on land that is potentially contaminated land due to its former use. The recommendations of these reports were confirmed by the Council's Environmental Health Officer at that time subject to a condition dealing with unexpected contamination. Condition 16, however, was a requirement of the Coal Authority. Whilst the Coal Authority concurred with the recommendations of the Environmental Statement submitted with the outline application, it concluded that the coal mining legacy potentially posed a risk to the development and requested that further intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site.
- 10.40 Consequently, the applicant has submitted a Phase II Site Investigation report dated 3rd December 2019 as well as a Phase II Geo-environmental Report prepared by Wardell Armstrong dated November 2017. The Coal Authority advised Local Authorities in May 2020 that they had postponed their service in relation to considering discharge of condition consultations as they are not formally required to provide consultations at that stage. The CA did provide guidance to LPAs when considering such discharge of planning conditions, including whether the report is prepared and signed off by a competent persons, whether it is written in a clear and credible way, whether there is sufficient evidence to support its conclusions and recommendations. Furthermore, in this case, advice was sought from the Council's Environmental Health Team as far as practicable.
- 10.41 The Council consider that the report has been undertaken by competent persons with specific knowledge and expertise in this matter. It does include an assessment of intrusive site investigations pursuant to Phase 1. Within it, it identifies soil analysis results, including 1 reported sample that had elevated total cyanide (WS101). However, Environmental Health Officers agree with the conclusions of the report that as the reported figure is total cyanide, it is unlikely to pose a risk. Furthermore, the report recommends that the soil where elevated cyanide is found, is removed and replaced.

- 10.42 In terms of gas monitoring, the report shows results from 6 gas monitoring rounds over a 12-month period. It identified no elevated ground gas emissions in the area of development and suggests ground gas protection measures in line with national guidance. It does indicate elevated ground gas emissions within an area of possible shallow mining and recommends elevated gas protection elements in the southern area of the site. Environmental Health agree with this proposal. Further clarification was sought in respect of the justification for a lower risk ground gas regime across the remainder of the site. Further information was provided by the applicant indicating that an elevated recording of methane was located in a monitoring well approximately 250m to the south of the proposed development. The well was installed in an area of deep made ground formed by opencast mining. The applicant considered the risk posed by the concentrations recorded and noted, amongst other points, that all monitoring undertaken in proximity to the structure within the application boundary recorded methane below limits of detection. It was concluded the off-site source of gas posed a very low risk to the site. Therefore, mitigation measures are not deemed necessary in the proposed development. Having reviewed this additional information, Environmental Health confirmed that they were satisfied there was a low migration risk to site users given the ground conditions such that no gas mitigation measures are required.
- 10.43 In terms of zones of influence for the recorded mine entries on site, the definition of suitable 'no build' zones, a scheme of treatment for the recorded mine entries for approval and a scheme of remedial works for the shallow coal workings, these were all identified in a Coal Mining Risk Assessment for Phase 1 and 2 prepared by Curtins dated 4 February 2020 (Report Ref: : B065646-CUR-00-XX-RP-GE-001), This report was submitted to discharge condition 16 (site investigation) of 2016/92298 in accordance with 2019/93679, which was approved in December 2019 and has informed the subsequent layout of Phase 1. Furthermore, at that time, the Coal Authority did comment that the Coal Mining Risk Assessment submitted identified that within Phase 1, there are no risks arising from past coal mining activity and no further works are required in this area.
- 10.44 The information provided to discharge Condition 17 as it relates to Phase 1 is acceptable. It is therefore considered to meet the objectives of Policy LP30 and it is recommended that Condition 17 be discharged for Phase 1. This is subject to advice that to secure full compliance with Condition 17, the development must be implemented in accordance with the information and recommendations set out in the Ground Investigation Report (Ref: V01) dated 3rd December 2019, the Phase II Geo-environmental Report prepared by Wardell Armstrong dated November 2017 (Report Ref: RPT-002C) both received 26 May 2020 and the Coal Mining Risk Assessment for Phase 1 and 2 prepared by Curtins dated 4 February 2020 (Report Ref: : B065646-CUR-00-XX-RP-GE-001) approved as part of Condition 16 in accordance with 2019/93679.

#### Condition 18 (Tree Survey)

- 10.45 Policy LP33 of the KLP confirms that the Council will not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity. It also confirms that proposals will need to comply with relevant national standards regarding the protection of trees in relation to design, demolition and construction. Where tree loss is deemed to

be acceptable, developers will be required to submit a detailed mitigation scheme. Within this context, Condition 18 required details of a tree survey and Arboricultural Method Statement for the entire site and partly to ensure that there would be no harm to the adjacent ancient woodland (Hanging Wood).

- 10.46 The submitted Arboricultural Impact Assessment and Arboricultural Method Statement (AMS) clearly details the impact of the development on the proposed trees. Whilst 7 trees and a tree group will be removed to facilitate Phase 1, a larger proportion of seven trees, five whole tree groups and the hedgerow will be retained for the Phase 1 development. These would all be protected with security fencing. Hanging Wood, adjacent to the east side of the site, would also be protected by the retention of the existing boundary and site fencing to the edge of this wood.
- 10.47 The Council's Tree Officer has confirmed that on the basis that the AMS forms part of the approved documents for the reserved matters for Phase 1, there is no objection to the proposal and Condition 18 on the outline application has been satisfied in this regard. The proposal is therefore compliant with Policy LP33. It is therefore recommended that Condition 18 be discharged for Phase 1. This is subject to advice that to secure full compliance with Condition 18, the development must be implemented in accordance with the information and recommendations set out in the Arboricultural Method Statement prepared by Brooks Ecological (Report Ref: AR-4003-02-A) received 1<sup>st</sup> July 2020.

#### Condition 19 (Public Rights Of Way (PROW))

- 10.48 Policy LP23 of the KLP refers to the core walking and cycling network across the district to provide an integrated system of cycle routes, public footpaths and bridleways. The supporting text to LP23 notes that where a new development affects an existing public right of way (PROW), full details will be required within the planning application with appropriate mitigation measures to ensure the protection of the PROW for users.
- 10.49 In this case, the revised scheme detailed at Paragraph 3.21 has been prepared following direct discussion with the Council's PROW Officer. However, a final confirmation from PROW to confirm that these details are now acceptable and whether any additional conditions are required is still outstanding. This will be confirmed within the Committee update report.

#### Condition 29 (Noise attenuation)

- 10.50 As noted at Paragraphs 3.22 and 3.23 of this report, Condition 29 relates specifically to noise from operational site activities (comprising HGV movements and reversing alarms) rather than noise associated with the construction phase. These matters are controlled in any event by Condition 8 (Construction Environment Management Plan (demolition and enabling works) (Phase 1) of previous permission 2016/92298, which is being considered in accordance with a separate discharge of condition application 2020/92342. Moreover, it is long established in planning case law that issues arising from the construction period of any works, e.g. noise, dust, construction vehicles, hours of working legislation are not a material planning consideration.

- 10.51 For these reasons, and also taking into account that Phase 1 does not result in the construction of any new buildings such that it will not generate any HGV movements, no specific details are required for Condition 29 in respect of Phase 1 and it can be considered to be discharged on this basis.

#### Condition 31 (Electric vehicle charging points)

- 10.52 On the basis that Phase 1 does not result in the construction of any new buildings such that it will create neither a demand nor a requirement for electric vehicle charging points or a low emission strategy, no specific details are required for Condition 31 in respect of Phase 1 and it can be considered to be discharged on this basis. Such details will, however, be required for all future phases.

#### Response to Representations

- 10.53 It is acknowledged that there has been a significant level of local representation in response to this Reserved Matters submission, the details of which are summarised in Section 7.0 of this report. However, it must be noted that the majority of representations are objecting to matters that were previously assessed and determined at the outline planning stage. This outline permission already gives consent for the principle of the development of the site for up to 35,284m<sup>2</sup> of B1, B2 and B8 uses, including the highway impacts and off-site highway mitigation. Within this context, the response to representations is set out below:

#### Highways Issues

- 10.54 The majority of the objections raising general highway concerns pursuant to this application are, for the most part, objecting to the principle of the scale of development across the wider site and the means of access into it. However, as noted above, these matters are not relevant to this consideration of this specific application. This application is a Reserved Matters submission in relation to Phase 1 only. There are no buildings proposed as part of it.
- 10.55 More significantly, the outline planning permission in 2018 has already established consent for the extent of development on the site. It was based upon an Environmental Impact Assessment that included a full appraisal of the highway impacts of this level of floorspace. This included detailed traffic surveys and assessments of traffic generation. As such, whilst the concerns of local residents regarding a general increase in traffic generally are acknowledged, it has already been accepted by the Council that the current road infrastructure will be sufficient for the size of this development. Moreover, the mitigation measures (including mitigation to Chain Bar) have already been agreed as part of the Section 106 agreement. The S106 confirms that these have to be implemented prior to first occupation of any building.
- 10.56 Alternative options for access into the site were also fully considered at outline planning stage and Members have previously accepted the point of access via a new priority junction on Cliff Hollins Lane. This will be subject to a Road Safety Audit. It is also noted that the HSE were consulted as part of the outline planning application and did not advise against the granting of planning permission even taking into account the single point of access.

- 10.57 In response to concerns about the school car park and flooding issues, this land is within the remit of Bradford MDC and the planning applications on this site are for Bradford to consider and determine.
- 10.58 In response to objections relating to the operation of Mill Carr Hill Road/Cliff Hollins Lane/Bradford Road and whether or not these are operating at capacity, this is again, a matter that was considered fully at outline planning stage with the traffic impact being fully considered based upon a maximum development capacity at the site at that time.
- 10.59 It is understood that both Mill Carr Hill Road and Cliff Hollins Road are narrow and the comments from local residents that they are used as a 'rat-run' by motorists trying to avoid the long heavy traffic queuing at Chain Bar roundabout are noted. However, the mitigation measures secured at outline planning stage were sought for these reasons. These include a 7.5 tonne limit on Cliff Hollins Lane to preclude large vehicles. It is appreciated that some future employees may use this route as future phases will generate permanent employment. However, a Travel Plan was submitted with the outline planning permission to encourage travel by means other than the private car and such a mechanism can be sought on future phases where buildings are proposed. No buildings are proposed within this application.
- 10.60 The proposal for a roundabout on the Mill Carr Hill Road/Cliff Hollins Lane junction was rejected by the Local Authority in December 2017. Instead, a priority junction was agreed as part of the off-site works within the Section 106 agreement with the outline permission.
- 10.61 In terms of the impact of the proposal on Cliff Hollins Lane from the bridge upwards and the fact that traffic coming down Cliff Hollins Lane from East Bierley will come to a T junction and will need to stop to allow vehicles to enter/exit the site, as noted in the report, this junction is the subject of a current Road Safety Audit.
- 10.62 In response to concerns about the narrowness of the road through Cringles, these matters were considered and assessed at outline planning stage in order to establish the principle of this development, which has already been approved. The agreed off-site highway works set out in the report were required in order to mitigate any impacts.
- 10.63 Concerns regarding the hill during winter months, particularly around the junction of Mill Carr Hill Road and Cliff Hollins Lane are noted. The gradient was also acknowledged in the Transport Assessment submitted with the outline application. As set out above, mitigation was appropriately secured at that stage and it is not part of the consideration of this Reserved Matters application, which relates only to Phase 1.
- 10.64 The impact of HGVs travelling along Mill Carr Hill on the foundations of the motorway bridge is a matter for Highways England. HE were fully engaged in the application at the outline planning stage, which approved the extent of employment development on this site. They did not object subject to conditions being attached to that outline consent.
- 10.65 Accident data was fully considered as part of the outline planning permission.

- 10.66 In response to concerns about footpaths in the locality, this was also assessed and considered as part of the outline planning permission. The off-site highway works include measures to improve pedestrian movement. These include a 2m footway along Mill Carr Hill Road towards the junction with Bradford Road so there is a footway on each side, a 2m wide pedestrian island on this stretch. The re-alignment of the Carr Hill Road/Cliff Hollins Lane junction to give priority to vehicles travelling towards Cliff Hollins Lane and the development site will also include pedestrian footways secured as part of the S106 agreement.
- 10.67 The impact of the development on Woodlands School (in its entirety rather than specific to this Phase 1 application) was fully considered as part of the outline planning permission and specifically, a concern about the likely increase of HGV vehicle traffic movement in close proximity to school. As noted at that time, the route of HGVs from the site would be unlikely to pass in front of Woodlands C of E School as it lies to the north. In terms of the impact of the construction phase, it is for this reason that the school drop-off/car park is to be provided. This has been approved in outline by Bradford MDC with the Reserved Matters currently pending consideration.
- 10.68 It is acknowledged that the area is used by other road users, including cyclists and horse riders. However, the off-site highway works secured as mitigation as part of the outline planning permission have all been subject to a safety audit and the new junction between the site access and Cliff Hollins Lane has been the subject of a safety audit as part of this application. This will ensure that they are appropriately designed. Whilst acknowledging that this proposal will result in additional highway movements, as approved by the outline permission, the safe design of the mitigation measures has been fully considered.

#### Air Quality and Pollution

- 10.69 Local concern with regard to air quality is acknowledged and fully appreciated. However, the principle of developing the site for up to 35,284m<sup>2</sup> of B1, B2 and B8 uses has already been accepted by the Council by granting the outline planning permission, approved by the Planning Committee in March 2018. As stated in the report above, this application seeks only to agree the Reserved Matters for Phase 1.
- 10.70 Moreover, Air Quality was fully considered as part of the outline consent as it included a full Air Quality Assessment (AQA). With regard to potential impacts during the construction phase, the AQA concluded that with appropriate mitigation measures (i.e. a Construction Environmental Management Plan condition) impacts could be effectively controlled and managed, and so the residual impacts were considered to be negligible. A CEMP condition was attached to the outline and for Phase 1, details have been provided in accordance with a separate discharge of condition application (2020/92342). Restrictions on the times that HGVs can access the site were not imposed as part of the outline permission and would not meet the tests for the imposition of planning conditions set out within the National Planning Policy Framework. It would not be reasonable to restrict HGV movements during either a construction phase or the operational phase of an allocated employment site.



10.71 Furthermore, this Phase 1 application is essentially a construction phase. No buildings are proposed and it does not progress the site into an operational phase. Future phases, where buildings are proposed, will need to consider the operational impact with regard to Air Quality and the inclusion of low emission strategies to off-set the impact of the development. This requirement is contained within Condition 31 of the outline planning permission. In the event that none are incorporated, the S106 includes a clause that the developer shall pay an Air Quality Mitigation Contribution of £71,370, the equivalent of the identified damage costs to be spent on air quality mitigation measures in the vicinity of the site. It is therefore a matter for future phases.

#### Flooding

10.72 With regard to flooding concerns and whether water draining from the development will cause further downstream issues with increased flooding, this was a matter appropriately considered and determined at outline planning stage. The Lead Local Flood Authority did not object to the development subject to the imposition of relevant planning conditions, which will need to be discharged and approved for each phase.

#### Public Right of Way

10.73 There is an acknowledgment in the representations that the developer has included plans to maintain the footpath through the site but no provision has been made for parking for those wishing to travel to it by car or for visitors to Cringles. There is no requirement for the applicant to accommodate vehicles that choose to park on the public highway to access a public footpath nor visitors to Cringles. It is the responsibility of highway users to park safely.

#### Pollution issues

10.74 Residents have raised concerns regarding noise from the proposed industrial units with the suggestion of baffles - trees, grass banks - to provide some reduction in noise levels when the site is in use. As stated above, this Phase 1 application will not result in the construction of any buildings. However, the noise impact of the proposal in relation to surrounding residents was fully considered at outline stage. As a consequence, the outline planning permission includes two specific conditions that future phases where a building is proposed will need to comply with. These include a requirement to demonstrate how the proposal will achieve a level of 5dB attenuation measures through the provision of screening and land features in accordance with the Noise & Vibration Report accepted as part of the outline permission. There is also a separate condition controlling fixed mechanical services and external plant and equipment at any individual unit on the site. These should address concerns relating to noise.

10.75 During the construction phase, including this Phase 1 submission, the applicant is required to submit a Construction Environment Management Plan, which includes a requirement to submit details of the procedures that will be used to protect the amenity of occupiers of nearby sensitive premises by effectively controlling a range of matters, including noise and vibration from construction activities and vehicle movements. These details have been provided in accordance with a separate discharge of condition application (2020/92342).

10.76 With regard to light pollution, this is also covered by the CEMP, which requires details of the procedures that will be used to protect the amenity of occupiers of nearby sensitive premises by effectively controlling stray light and glare from artificial lighting used on site. A separate condition requires details of a lighting strategy prior to the occupation of any building on site. As such, lighting will be considered for each phase and is already controlled by conditions on the outline consent.

10.77 Ground contamination was also fully considered at outline stage and is controlled by conditions on the outline permission. Specific concerns have been raised about the filter beds. However, the applicant has provided details of soil classification tests undertaken on the filter beds. They advise the following:

‘As detailed in the ‘Department of Environment Industry Profile: Sewage works and sewage farms’ the majority of contamination from the treatment process is contained within the sludge extracted during the phased treatment. The filter media would have been used as part of the secondary treatment process following initial screening of the sewage would remove c. 55% of the waste. The purpose of the material was to allow secondary treatment through microbial degradation of percolating primary treated effluent. Excess biological material was then sloughed off and removed. Key to the process is the maintenance of c. 50% voids in the bed material to encourage the oxidation and allow the material to be drained. On cessation of the introduction of effluent, the microbial action would have ceased as it requires the ‘biological materials’ in the effluent to work. As expected, therefore, the filter bed material has been confirmed in grading testing to be >90-95% gravel. The potential for gross contamination in sludge to be entrained in the material is therefore extremely low. To date no such material has been identified in the filter media removed and stockpile.

The proposed use of the material is as a Class 1 aggregate and so in the unlikely event that any sludge was identified it would be non-compliant with the materials specification and would be separated. Its presence would be considered unexpected and, as would be required under standard planning condition process, would be subject to assessment through appropriate testing, risk assessment and action (likely documented removal from site).

There is already a condition on the outline consent that deals with unexpected contamination and consequently, this matter is adequately addressed by the outline permission.

### Green Belt

10.78 As detailed in the report above, the site does not lie within the Green Belt. It is allocated for employment use within the Kirklees Local Plan.

### Living Conditions

10.79 An objector considers that all new developments should be camouflaged and out of site and the buildings should blend into the landscape and not be seen by the naked eye. No buildings are proposed within this Phase 1 application. The appearance and scale of the industrial units, and their landscaped setting, will be considered as part of future phases.

### Ecology

- 10.80 The ecological impacts of the development were fully considered as part of the outline planning permission. Moreover, a Biodiversity Enhancement Management Plan has been agreed as part of this application as detailed in the report above.

### Employment

- 10.81 In response to the objections relating to the employment figures and whether or not the proposal is necessary given the number of unused units in the surrounding areas, this is not a matter that is relevant to the consideration of this application. The principle of the development has already been established and agreed by the outline planning consent.
- 10.82 The concern regarding job opportunities and apprenticeships is noted and will be discussed with the applicant of future phases that relate to the construction of the individual units.

### Procedural

- 10.83 In responses to concerns that plans should be advertised locally as not everyone has access to a computer, it is noted that the application has been advertised in accordance with the statutory requirements set out in the Town and Country Planning (Development Management Procedure) Order 2015.
- 10.84 Issues raised by residents in relation to the mounds of earth previously on site and whether the planning had been finalised is addressed in the enforcement section above.
- 10.85 It is appreciated that residents of Oakenshaw and Lower Woodlands have voiced previous objections to the development but feel that it had no effect on the decision Kirklees Council made. One resident feels that it is because the site is on the border of Kirklees/Bradford. Residents can be assured that this is not the case. Whilst the outline planning permission was approved notwithstanding previous objections from local residents, it was considered by the Council's Planning Committee at that time with full knowledge of local objections and determined in accordance with both national and local planning policy and guidance.
- 10.86 In response to the view that the car park should be dealt with at Reserved Matters Stage by Bradford Council before this application is considered by Kirklees Council to ensure that it has the appropriate permissions in place. This application is due to be considered by Bradford Council's Planning Committee in the coming month or so and, as such, its determination is aligned with this application.

### Other

- 10.87 In response to concerns that the building of the industrial estate will affect the attractiveness and selling price of the houses of residents' nearby, it is established in planning case law that this is not a material planning consideration.

- 10.88 In response to a specific concern that a resident would not like any further trees planted outside the back of bungalows because their light is already limited due to the trees lining the M606, as set out in the report above, landscaping is proposed within the site and along the access road.
- 10.89 In response to the comment that there are few shops left in the village and additional traffic will have a knock-on effect to the passing trade, it is considered that this is anecdotal and the reduction in local shops cannot be attributed to this specific development.
- 10.90 It is acknowledged that the Phase 1 proposal is located within COMAH Band C and there is also a high pressure gas main bisecting the site. However, no buildings are proposed as part of Phase 1 and consequently, there are no permanent occupants on site, which is the primary interest of the HSE. Furthermore, the HSE did not object to the outline planning application and they will also be consulted on future phases where buildings are proposed.
- 10.91 Concerns have been raised about how the site was allocated. However, this is not relevant to the determination of this application. Moreover, the site allocation process was subject to an in-depth public examination process and detailed scrutiny by an independent Planning Inspector appointed by the Planning Inspectorate.

## **11.0 CONCLUSION**

- 11.1 This application seeks Reserved Matters approval for matters of access, layout, scale, appearance and landscaping for Phase 1 of the development of the former waste water treatment works pursuant to outline planning permission (2016/92298) for the redevelopment of the site to provide employment uses within Use Classes B1(c) (light industrial), B2 (general industrial) and B8 (storage and distribution).
- 11.2 The principle of the employment development of this site for up to a maximum of 35,284m<sup>2</sup> of B1, B2 and B8 uses was established by the outline permission. This application relates specifically to the construction of the access road and the formation of plateaued, remediated and serviced development plots in accordance with the outline.
- 11.3 As set out in the report above, the principle of the access road in terms of its location within the site is acceptable. Subject to an acceptable Road Safety Audit, it is considered that sufficient details have been provided in respect of the relevant Reserved Matters of access, landscaping and layout (with scale and appearance not relevant to this phase) to discharge Conditions 1-3 of 2016/92298.
- 11.4 In addition, sufficient information has been submitted to discharge Condition 6 (Biodiversity Enhancement Management Plan), Condition 17 (Site investigations), Condition 18 (Tree Survey), Condition 29 (Noise attenuation) and Condition 31 (Electric vehicle charging points) of 2016/92298 as they relate to Phase 1. The revised information submitted in respect of Condition 19 (PROW) also reflect discussions with the Council's PROW Officer and are acceptable in principle, subject to confirmation from PROW in terms of their details and whether any additional conditions are required.

11.5 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and it 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 in accordance with the approved plans.
2. Phase 1 to be completed in accordance with the advice and directions (recommendations) contained within the Arboricultural Method Statement.

**Background Papers:**

Application and history files:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f91488>

Certificate of Ownership – not required as this is a Reserved Matters submission following outline approval.