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

**STRATEGIC PLANNING COMMITTEE**

**Date: 28-Oct-2020**

**Subject: Planning Application 2020/91376 Erection of D2 (leisure building) and B1c /B8 (starter unit/trade counter building) Land adj, 260, Bradford Road, Batley, WF17 6JD**

**APPLICANT**

Batley Variety Club Ltd

**DATE VALID**

18-May-2020

**TARGET DATE**

17-Aug-2020

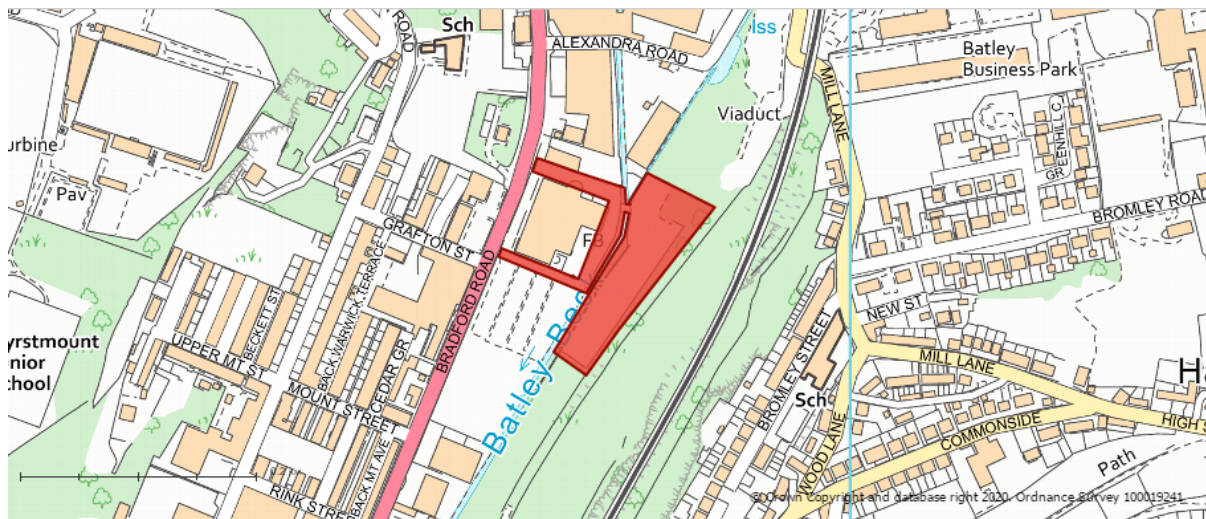
**EXTENSION EXPIRY DATE**

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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: Batley East**

**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 the list of conditions including those contained within this report and issue the decision.**

**1.1 INTRODUCTION:**

- 1.2 The application is brought to the Strategic Planning Committee due to the size of the site exceeding 0.5ha.
- 1.3 The Chair of the Strategic Planning Committee has confirmed that the application complies with the reasons for referral to committee are valid having regard to the Council's Delegation Agreement.

**2.0 SITE AND SURROUNDINGS**

- 2.1 The application site relates to a piece of land to the rear of JD Gyms building which fronts onto Bradford Road in Batley. The area of land is currently hardstanding and is located parallel to Batley Beck to the East.
- 2.2 To the rear of the site, there is a wooded area of mature trees. The trees are not protected.
- 2.3 To the North of the site is a cluster of industrial and commercial buildings of varying scales and designs. To the East there are a number of commercial buildings and to the south is a small area of green space with industrial buildings further to the south. There are residential properties in the area but these are over 100 metres away.
- 2.4 The site is unallocated on the Kirklees Local Plan. The site is not located in a conservation area and is not located within a town or local centre.

**3.0 PROPOSAL:**

- 3.1 Planning permission is sought for the erection of a D2 leisure building and a B1c/B8 (starter unit/trade counter building) as seen on the submitted plans.
- 3.2 The submitted site plan shows that the site would be accessed from the existing access from Bradford Road. Two car parking areas are shown to the North East and South West of the buildings. There would also be parking to the front of the proposed buildings.
- 3.3 The proposed buildings would be functional in design and as per the proposed drawings, both buildings would be constructed from profiled steel sheet cladding. The buildings would have basic fenestration detailing to reflect the intended use of the buildings.

3.4 The swimming pool building, 'Unit 1', has a mezzanine level, and 'Unit 2' is a single storey building.

#### **4.0 RELEVANT PLANNING HISTORY:**

4.1 2016/91202 – Change of use from nightclub/music venue to gymnasium (Class D2) APPROVED (260 Bradford Road)

4.2 2017/94062 – Discharge of conditions 5 (Japanese knotweed) and 7 (flood mitigation) on previous permission 2016/912020 for change of use from nightclub/music venue to gymnasium (Class D2) APPROVED

4.3 2019/90890 – Development of a synchronous gas powered standby generation facility, plus ancillary infrastructure, equipment and access APPROVED

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

5.1 The case officer entered into discussions with the applicant with regard to the requirement for a leisure sequential test and impact assessment, along with a flood risk sequential test and flood risk assessment justification. The additional information has been provided. The case officer has also requested further information in relation to highway safety, this amended information is acceptable to Highways DM.

#### **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).

6.2 The site is unallocated on the Kirklees Local Plan.

6.3 Kirklees Local Plan (KLP):

**LP1** – Presumption in favour of sustainable development

**LP2**– Place shaping

**LP13** – Town Centre Uses

**LP21**– Highway Safety

**LP22**– Parking Provision

**LP24**– Design

**LP27** – Flood Risk

**LP28** – Drainage

**LP30** – Biodiversity and geodiversity

**LP33** – Trees

**LP35** – Historic environment

**LP47** – Healthy and safe communities

**LP51** – Local air quality

**LP53** – Contaminated and unstable land

#### 6.4 National Planning Policy Framework:

**Chapter 6** – Building a strong, competitive economy

**Chapter 7** – Ensuring the vitality of town centres

**Chapter 8** – Promoting healthy and safe communities

**Chapter 9** – Promoting sustainable transport

**Chapter 11** – Making efficient use of land

**Chapter 12** – Achieving well designed places

**Chapter 14** – Meeting the need for climate change, coastal change and flooding

**Chapter 15** – Conserving and enhancing the natural environment

**Chapter 16** – Conserving and enhancing the historic environment

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

7.1 As a result of the publicity period, one representation has been received. The following points have been raised:

- Other swimming/leisure buildings in the area – their viability will be undermined by this development – and undermine town centre viability for existing locations
- Decrease in customers at existing leisure venues

7.2 No Parish/ Town Council comments are required for this planning application.

7.3 Officer comments in response to the representations will be made in the report below.

#### 8.0 **CONSULTATION RESPONSES:**

##### **Statutory:**

The Environment Agency – following amended information, no objection

Local Lead Flood Authority – no objection following the submission of further information. This is subject to conditions.

##### **Non statutory:**

Yorkshire Water – no objection. Condition recommended

K.C Trees – no objection

K.C Planning Policy- sequential impact assessment and impact assessment for leisure use acceptable. Flood Risk sequential test methodology sufficient.

K.C Highways Development Management – no objection subject to conditions

K.C Environmental Health – no objection subject to conditions

K.C Ecology Unit – no objection subject to conditions

K.C Crime Prevention – comments made

K.C Conservation and Design – comments made.

Sport England – no comments to make.

## **9.0 MAIN ISSUES**

- Principle of development
- Urban design issues
- Residential amenity
- Highway issues
- Representations
- Other matters

## **10.0 APPRAISAL**

### Principle of development

- 10.1 The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. Policy LP24 of the KLP is relevant and states that “good design should be at the core of all proposals in the district”.
- 10.2 Consideration has also got to be given to Chapter 7 of the National Planning Policy Framework which states that “local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up to date plan”. Policy LP13 of the Kirklees Local Plan reiterates the above. The site is not in a main town centre and the leisure building is a main town centre use.
- 10.3 The applicant has provided a sequential test and a leisure impact assessment to aid the assessment of the proposed development in relation to the vitality and viability of the nearby local centres. K.C Planning Policy have commented on the planning application and advised that the information provided with regards to the sequential test is acceptable for this purpose. The below justification demonstrates that there are no other suitable sites available within the main town centre.

### Leisure sequential test

- 10.4 The applicant has provided details on the scope of the leisure sequential test. In this case, this comprises sites and premises within Batley, Dewsbury, Heckmondwike, Birstall, Ravensthorpe and Ossett centres, which is the catchment area for the swimming pool building (customers driving 10 minutes).
- 10.5 The applicant has provided information which states that there are only two sites which could, possibly, accommodate the development. Both of the sites are in Batley. One of the sites is allocated for housing in the Local Plan and therefore has been discounted.

- 10.6 Officers have conducted an online search of preferable sites within the centres of the catchment area and it is considered that there are no other sequentially preferable sites. It is agreed that the conclusions of the sequential test are acceptable, and the test has been passed.

#### Leisure impact assessment

- 10.7 A leisure impact assessment is required as set out in Policy LP13 of the Kirklees Local Plan. The Kirklees Local Plan states that for developments that are not within a defined centre where the proposal provides a floor space greater than 500 sq. m, a leisure impact assessment must be provided. In this case, the proposed floor space exceeds 500sqm and therefore the requirement for an impact assessment is applicable.
- 10.8 Paragraph 89 of the National Planning Policy Framework states that “the impact on existing committed and planned public and private investment in a centre in the catchment area proposed and “the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area” must be considered.
- 10.9 Officers have considered the applicant’s justification that states that there are waiting lists for swimming pools in the area and that this will give consumer choice in the local area. This is not wholly accurate as the Kirklees Active Leisure data states that there is adequate capacity for lessons to be taken in the existing pools.
- 10.10 Officers have noted that there is only one swimming facility within the catchment area which is located within the centre of Batley.
- 10.11 Officers consider that the proposed development of the leisure facility may likely impact on the town centre based facility in Batley, but this is not anticipated to be a ‘significant adverse impact’ given that different services are offered at the KAL facility. For example, the swimming lessons offered by KAL enable partnership working with established aquatics clubs, for example, as well as offering additional activities, not just swimming lessons. Therefore, in accordance with paragraph 90 of the NPPF and Policy LP13 of the Kirklees Local Plan, Officers are satisfied that there is no evidence to refuse the application on this ground.
- 10.12 Taking into account all of the above, Officers consider that the principle of development on this site is acceptable, subject to an assessment of relevant material planning considerations.

#### Impact on visual amenity:

- 10.13 Chapter 12 of the National Planning Policy Framework states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Policy LP24 of the Kirklees Local Plan reiterates this and aspires for all developments to promote good design.

- 10.14 The buildings would be of a functional design and scale and would have basic fenestration detailing which is acceptable for the proposed use. The design and scale of the buildings is typical of the area in which the buildings are located. Some changes to the design have been made as a result of comments from the Police Architectural Liaison Officer, these changes are minor.
- 10.15 The buildings are located to the rear of the JD Sports gym and will not be overly visible in the street scene. In terms of the character of the area, this is characterised by a range of building designs and a variety of tall structures, meaning that the buildings proposed, which relate appropriately to each other, will not be incongruous in the area, in fact the proposed development is considered to be an efficient use of the site which is currently vacant.
- 10.16 The scale of the buildings is acceptable and will not look out of place and the materials are of a commercial style, typical of many of the buildings surrounding the area.
- 10.17 In the opinion of Officers, for the reasons discussed above, the proposed development is acceptable on this site which is unallocated, complying with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

#### Residential Amenity

- 10.18 The impact on residential amenity is considered, by officers, to be acceptable. Chapter 12 of the National Planning Policy Framework states that planning decisions create places that are safe, inclusive and accessible and which promote health and wellbeing, with a high standard of amenity for existing and future users, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience. This is consistent with Kirklees Policy LP24 of the KLP. Policy LP52 of the Kirklees Local Plan states that planning decisions must not “reduce the quality of life and well being of people to an unacceptable level” in relation to noise. This is reiterated in Chapter 15 of the National Planning Policy Framework.
- 10.19 This section of the report will assess the impact on residential amenity as a result of the proposed buildings and their use.
- 10.20 The buildings themselves will not result in any overbearing or overlooking that would cause harm to residential amenity to occupiers of residential dwellings. This is due to the distance between the site and the nearest occupiers, which are over 100 metres away to the east, and over 130 metres away to the south west. This distance is sufficient to avoid any harm in this regard.
- 10.21 However, K.C Environmental Health have commented on the planning application and raised a concern in relation to the mechanical plant that would be required to facilitate the use of the building as a swimming pool. For this reason, Officers have recommended a pre commencement condition for a noise report to be submitted and subsequently approved in writing by the Local Planning Authority, to ensure that the use can be achieved whilst ensuring that sensitive receptors close to the site are not detrimentally affected.

- 10.22 Officers are satisfied that the required noise mitigation measures can be achieved within the new build, and therefore a pre commencement condition is sufficient in this instance.
- 10.23 The proposed development is therefore, in the view of Officers, acceptable on balance for the reasons discussed above, complying with Local Plan Policy LP24 and Chapter 12 of the National Planning Policy Framework.

#### Highway issues

- 10.24 Chapter 9 of the NPPF states that when assessing sites for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, safe and suitable access to the site can be achieved for all users and any significant impacts from the development on the transport network, or on highway safety can be cost effectively be mitigated to an acceptable degree. Policy LP21 of the Kirklees Local Plan reiterates this, stating that new development will normally be permitted where safe and suitable access to the site can be achieved and where the residual cumulative impacts of development are not severe.
- 10.25 Highways Development Management have commented on the planning application. The proposed development will utilise the existing access and the swim school is considered by Officers not to generate significant trips to the site, especially given that the building is likely to be used at different times to the industrial building which is also proposed.
- 10.26 The TRICS data provided with the application is satisfactory to ensure that there would not be a conflict between the uses and there is sufficient parking at the site to make sure that there would be no displacement of vehicles on to the highway. Highways Development Management are also satisfied that the existing access is acceptable for the additional proposed uses.
- 10.27 Officers requested that the agent provided a plan to demonstrate that a refuse vehicle could enter, exit and turn within the site. This plan has been submitted and Officers are satisfied that the adequate swept path analysis has been submitted and can be achieved on site.
- 10.28 Considering the above, the proposal is considered acceptable from a highway safety and efficiency perspective with the inclusion of the suggested conditions, complying with Policies LP21 and LP22 of the KLP and Chapter 9 of the NPPF.

#### Other Matters

##### *Pre commencement conditions*

- 10.29 The agent has agreed their confirmation to pre commencement conditions in writing.

##### *Coal Mining Legacy*

- 10.30 The site is located within a 'low risk' coal mining area and therefore a Coal Mining Risk Assessment has not been submitted, nor has consultation with the Coal Authority been undertaken.



- 10.31 The proposed development is for the erection of new buildings which could have an impact on coal mining legacy as a result of significant ground works required to create the building. However, given that the site is within an area of 'low risk', the development falls under the 'exemptions' on the Coal Authority's exemptions list. For this reason, the proposed development is acceptable in this regard.
- 10.32 A footnote will be added to the decision notice to provide advice to the applicant should unexpected coal mining workings be found during construction. The proposed development complies with Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

#### *Climate Change*

- 10.33 Policy LP51 of the KLP relates to climate change and states that "Effective spatial planning is an important part of a successful response to climate change as it can influence the delivery of appropriately sited green infrastructure and the emission of greenhouse gases. Planning can also help increase resilience to climate change impact through the location, mix and design of development". This is also reflected in Chapter 14 of the NPPF as a core land use planning principle.
- 10.34 The NPPF emphasis that responding to climate change is central to economic, social and environmental dimensions of sustainable development. This application has been assessed taking into account the requirements summarised and provides opportunity for development that is considered to meet the dimensions of sustainable development.
- 10.35 In this case, given the scale of development, it is prudent to recommend a condition to ensure that electric vehicle charging points are provided within the proposed car parks. This is considered sufficient to demonstrate that it is not likely to result in, directly or indirectly, an increase in air pollution which would have an unacceptable impact on the natural and built environment.

#### *Trees*

- 10.36 To the east of the site, there is a belt of woodland/mature trees which have been considered as part of the assessment of the planning application. K.C Trees have been consulted on the application and have not raised an objection to the proposed development. This is because the trees are located behind a boundary wall and on higher ground, therefore they will not be affected by the proposals.
- 10.37 Officers consider that the proposed development complies with Policy LP33 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

#### *Ecology*

- 10.38 Due to the scale of the proposed development, Officers have consulted with K.C Ecology. It is noted that no ecological information has been provided with the application and therefore, it has not been demonstrated that biodiversity net gain will be achieved at the site. Whilst it is noted that the site itself does not have significant ecological value, the nearby area includes a significant

expanse of mature trees and Batley Beck, both of which are key characteristics in the Kirklees Wildlife Habitat Network (KWHN).

- 10.40 Officers consider that this KWHN should be enhanced as a result of the development and for this reason Officers will recommend a condition requiring a Ecological Design Strategy (EDS) to be submitted. This EDS should prevent significant ecological harm and secure a biodiversity net gain on site. For example, Officers have consulted records of nesting swifts should within 500m of the site, and therefore, ecological enhancements should be considered, in this case, to provide new swift nesting habitat within the proposed development.
- 10.41 Officers also note that any lighting that may be required to utilise the site could have a detrimental impact on the functionality of the Kirklees Wildlife Habitat Network, and therefore, a lighting strategy condition has also been recommended to Members. Subject to sufficient information being submitted at discharge of condition stage, which Officers are satisfied can be achieved, the proposed development is considered to be acceptable from an ecology perspective and a scheme can be achieved to demonstrate biodiversity net gain.
- 10.42 Officers consider that the proposed development is in accordance with Policy LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

#### Flood Risk

- 10.43 The application site is in Flood Zones 2, 3 and 3a and therefore Officers have given consideration to the application in relation to the likelihood of flooding and the associated considerations, along with whether there are any sequentially preferable sites for the proposed development to be located.
- 10.44 Firstly, a Flood Risk Assessment has been submitted and reviewed by Officers and the Environment Agency. The Environment Agency are satisfied with the information submitted in the Flood Risk Assessment and the Local Lead Flood Authority initially requested further information in relation to Flood Routing, access/egress from the site and a Flood Evacuation Plan.
- 10.45 The applicant has submitted information relating to flood routing and have commented that the applicant will sign up to the Environment Agency's Flood Prevention measures system. The Local Lead Flood Authority have commented on this information and state that the analysis of overland flow routing on site is acceptable. It is noted that the LLFA also have no objection in principle to the applicant's analysis of safe access and egress. A condition will be recommended to ensure that a flood evacuation plan is submitted prior to the commencement of development, along with a detailed design of surface water drainage. Officers consider that this can be achieved and therefore, a condition is acceptable. A condition for the management and maintenance of the surface water drainage infrastructure has been imposed.
- 10.46 In relation to the Flood Risk sequential test, Officers requested that the applicant demonstrate that there are no alternative sites within the catchment area that are at a lower risk of flooding than the existing development. K.C Planning Policy have confirmed that the methodology used to assess the sites is acceptable and Officers agree with the conclusions of the sequential

assessment that there are no other sequentially preferable sites to accommodate this development that are in Flood Zones 1 or 2, at a lower risk of flooding. Considering this, Officers are satisfied that, subject to the conditions described above, the proposal is in accordance with Policy LP27 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

### *Heritage*

10.47 To the Northwest of the site is a Grade II listed viaduct. Considering the distance to this structure and the acceptable design of the buildings, Officers are satisfied that there would be no harm to the setting of this structure, complying with LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

### *Contaminated Land*

10.48 The site is identified as being potentially contaminated on the Kirklees Council Mapping System due to its former use as Batley Sewage Works and therefore Officers have consulted with K.C Environmental Health to consider the impacts of the proposal.

10.49 K.C Environmental Health have noted the historic use of the site and agree with the Case Officer's reasoning for the land being potentially contaminated. For this reason, a suite of contaminated land conditions are recommended to ensure that the proposed development is safely occupied and will not result in harm to human health as a result of the proposed development. The suite of conditions include a Phase I, Phase II, remediation strategy and validation strategy to be submitted if required.

10.50 Subject to the above conditions, the proposed development complies with Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

### Representations

10.51 One representation has been received. The following points have been raised:

- Other swimming/leisure buildings in the area – their viability will be undermined by this development – and undermine town centre viability for existing locations
- Decrease in customers at existing leisure venues

*Officer comment: A leisure impact assessment has been submitted and reviewed by Officers. It is considered that there would be no significant adverse impact as a result of proposed development. See other matters section of this report.*

## **11.0 CONCLUSION**

11.1 To conclude, it is considered that, with the inclusion of the suggested conditions set out in section 12.0 below, the proposal would have an

acceptable impact with regards to visual amenity, residential amenity, highway safety and flood risk as discussed in the above report.

11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

**12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)**

1. Standard timeframe for implementation (3 years).
2. Development in accordance with plans.
3. Materials as shown on submitted plans
4. PEA to be submitted
5. Lighting strategy to be submitted
6. Development to be in accordance with FRA
7. Pre commencement flood evacuation plan
8. Electric vehicle charging points
9. Contaminated land conditions
10. requirement for site to be developed with separate systems of drainage for foul and surface water on and off site
11. pre commencement surface water drainage scheme to be provided
12. noise report to assess impact on noise sensitive premises

**Background Papers:**

Application documents can be viewed using the link below:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f91376>

Certificate A signed and dated 10.05.2020