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

**STRATEGIC PLANNING COMMITTEE**

**Date: 16-Dec-2020**

**Subject: Planning Application 2020/90988 Variation of condition 2. (plans and specifications) on previous permission no. 2013/90497 for erection of new industrial units Magma Ceramics, Low Road, Earlsheaton, Dewsbury, WF12 8BU**

**APPLICANT**

Magma Ceramics

**DATE VALID**

26-Mar-2020

**TARGET DATE**

21-May-2020

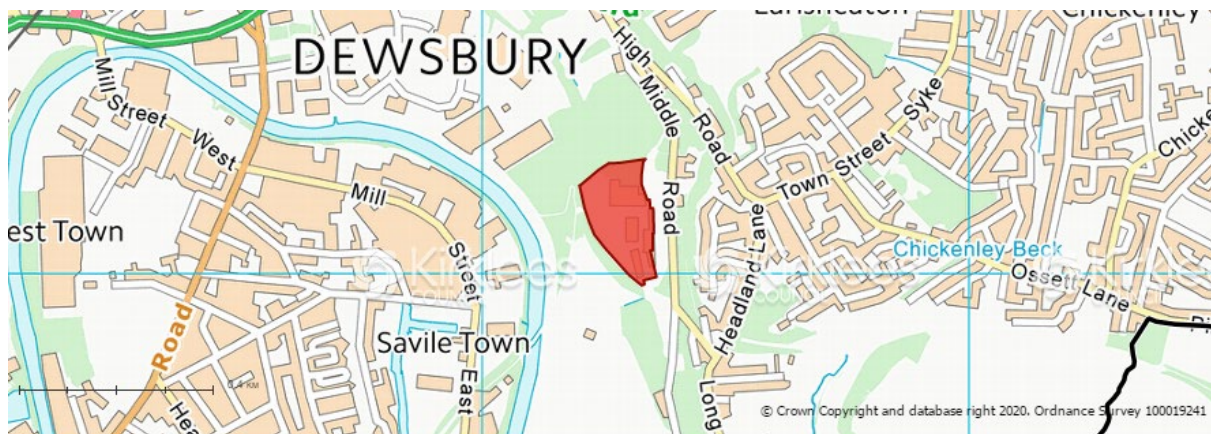
**EXTENSION EXPIRY DATE**

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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:** Dewsbury East Ward

**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.

**1.0 INTRODUCTION:**

- 1.1 This is a retrospective Section 73 (S73) planning application. The original planning application (Reference: 2013/90497) was presented to the Heavy Woollen sub-committee committee on 16<sup>th</sup> May 2013 and approved on 4<sup>th</sup> October 2013.
- 1.2 In accordance with the Council's Scheme of Delegation, this application is brought to committee as the proposal represents a departure from the development plan. The application site is situated on land allocated for residential development (Reference: HS46).

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site comprises an area of 2.54 hectares and is located to the west of Middle Road and Low Road. The site extends westward down to the boundary of the disused railway line, now used as a pedestrian and cycle route. This part of the link extends up to Preston Street and then through the old railway tunnel and on to Earlsheaton Common. To the North East of the site is a terrace of dwellings which are accessed off Low Road. These properties are approximately 20m from the boundary of the site and are in a slightly elevated position relative to it. Properties on Middle Road are in a considerably elevated position to the site.
- 2.2 The main access to the site is off Preston Street, which in turn comes off Sands Road and Middle Road. Immediately to the south of this access point is the crossing point for the pedestrian cycle way route as it enters the old railway tunnel. Immediately to the east of the entrance gate is a terrace of 3 dwelling units. Also a Public Rights of Way (Reference: DEW/136/20) connects Preston Street with Middle Road in this location.
- 2.3 The site is relatively level and is occupied by a number of large scale industrial/commercial buildings developed in either the 19<sup>th</sup>, 20<sup>th</sup> and 21<sup>st</sup> centuries and are associated with the Magma Ceramics works, together with hard standing areas for parking, servicing and other associated activities. To the immediate north and east of this grouping the site is comprised of rough grassland and self-seeded scrub. There are a number of trees along the western boundary, which is itself adjacent to the former railway line/cycle route.
- 2.4 A large proportion of the site is allocated in the Local Plan for residential development (Reference: HS46). The whole site is within the Strategic Green Infrastructure Network (River Calder Corridor) and Bat Alert area. Northern and eastern portions of the site is designated as a Woodland Wildlife Habitat Network. The site is also within a Coal Referral Area.

### **3.0 PROPOSAL:**

- 3.1 Proposals are seeking the variation of condition no. 2 on the permission granted under application no. 2013/90497, which reads:

*“2. The development hereby permitted shall be carried out in complete accordance with the approved plans and specifications except as may be required by other conditions.*

*Reason: So as to ensure the satisfactory appearance of the development on completion.”*

- 3.2 The site is occupied by Magma Ceramics, which is a general industrial business that manufactures and supplies a wide range of refractory, ceramic and catalyst materials and technology. The proposal is to expand the business within the site providing additional space in three phases. Two phases have been developed. However, the buildings have not been constructed in accordance with the approved plans due to the misunderstanding that an agreed industrial building volume had already been approved under planning permission reference 2013/90497. The Design and Access Statement explains that such changes made have been due to specific size and operational requirements of the buildings.
- 3.3 Details of the changes are provided later in this report.
- 3.4 It should be noted that a 2-storey amenity building constructed in 2018 found in the south western portion of the Magma Ceramics works site does not form part of this application.

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

2004/94430 - Demolition of existing building and erection of extension and chimney. Full Planning Permission (9<sup>th</sup> November 2004)

2012/90505 - Prior Notification for demolition of former mill building. Demolition details approved (17<sup>th</sup> April 2012)  
NB: This building covers the area that will be redeveloped as Building 1 of Phase 3 of the development.

2013/90497 - Erection of new industrial units. Section 106 Full Permission (4<sup>th</sup> October 2013)

2016/92974 - Discharge of conditions 3. (materials) 4. (boundary treatments) 5. (landscaping) 7. (drainage) 9. (surface water discharge) 10. (drainage) 11. (surface water flow) 14. (Phase II Intrusive Site Investigation Report) 19. (parking turning) 22. (demolition). Discharge of Conditions Split Decision (22<sup>nd</sup> December 2016)

2020/91422 - Erection of 2 storey staff amenity block (Retrospective) – Withdrawn (7<sup>th</sup> October 2020)

2020/92249 - Installation of external odour abatement scrubber package unit – Withdrawn (7<sup>th</sup> October 2020)

2020/93571 - Certificate of Lawfulness for existing staff amenity block – Decision Pending

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

- 5.1 During the course of the application, it was agreed that the 2-storey staff amenity block could not be included within the section 73 application given the nature of the proposal (i.e. an amenity building). The applicant submitted a retrospective planning application for the approval of this building, which was then withdrawn after the agent considered it to be permitted development. The applicant has subsequently submitted a Certificate of Lawfulness, which is pending (Reference: 2020/93571).
- 5.2 The applicant has paid an outstanding fee of £15,000 with regards to travel plan contributions.
- 5.3 A separate application for the installation of external odour abatement scrubber package unit was submitted but then withdrawn after discussions between Environmental Health and the applicant. It was then agreed that the proposed new location of this unit could be included within this Section 73 application. As such, revised plans and information were received.
- 5.4 Additional plans and information has also been received regarding highways, landscaping, drainage, coal mining risk and noise.
- 5.5 Discussions about the wording and trigger points regarding drainage and environmental health related conditions.

## **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 27/02/2019).

### Kirklees Local Plan (2019):

- 6.2 The most relevant policies are:

LP1 – Presumption in favour of sustainable development  
LP2 – Place shaping  
LP3 – Location of new development  
LP4 - Providing infrastructure  
LP21 – Highways and access  
LP22 – Parking  
LP24 – Design  
LP27 – Flood risk  
LP28 – Drainage  
LP30 – Biodiversity & Geodiversity  
LP31 – Strategic Green Infrastructure Network  
LP32 – Landscape  
LP38 – Minerals safeguarding  
LP51 – Protection and improvement of local air quality  
LP52 – Protection and improvement of environmental quality  
LP53 – Contaminated and unstable land  
LP65 – Housing allocations

- 6.3 On the policies map the site is situated on land allocated for residential development in the Kirklees Local Plan (Local Plan ID: HS46).

Supplementary Planning Guidance / Documents:

- 6.4 Relevant guidance and documents are:

- Highways Design Guide Supplementary Planning Document (2019)
- West Yorkshire Air Quality and Emissions Technical Planning Guidance

National Planning Guidance:

- 6.5 The National Planning Policy Framework (2019) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal.

- 6.6 The relevant chapters are:

Chapter 2 – Achieving sustainable development

Chapter 4 – Decision-making

Chapter 6 – Building a strong, competitive economy

Chapter 8 – Promoting healthy and safe communities

Chapter 9 – Promoting sustainable transport

Chapter 11 – Making effective use of land

Chapter 12 – Achieving well-designed places

Chapter 14 – Meeting the challenge of climate change, flooding and coastal change

Chapter 15 – Conserving and enhancing the natural environment

- 6.7 In addition, the National Design Guide published 01/10/2019 and the Planning Practice Guidance Suite (PPGS), first launched 06/03/2014, together with Circulars, Ministerial Statements and associated technical guidance. These are also material consideration in determining applications.

**7.0 PUBLIC/LOCAL RESPONSE:**

- 7.1 The site was advertised as constituting a Major development in the press on Thursday 23<sup>rd</sup> April 2020. Neighbour consultation letters were sent on Thursday 28<sup>th</sup> May 2020 and three site notices were erected in vicinity of the site on the Tuesday 2<sup>nd</sup> June 2020.

- 7.2 Six representations were received, three of which were from the same person. All of which were against the proposal. The redacted copies can be found on the council's website and are addressed within this report. In summary the following issues were raised:

- Inconsiderate neighbours and surrounding environment
- The people and the natural environment cannot cope with anything else
- Unsightly factory
- Speeding traffic day and night, including heavy and larger HGVs and other large vehicles

- Since expansion there has been an increase in the volume of traffic, which will increase further with increase in suppliers deliveries and obviously more and more personnel to the site on a daily basis
- Roads (particularly Middle Road) are already decaying, badly uneven with inadequate footpath provision and unsuitable for the increase in HGV traffic,
- Vibration to roadside properties and an increase in such traffic would make residence in Middle road even more intolerable
- Disregard for light, noise and particulate pollution not to mention odour would again be a warning sign for ANY expansion of the site
- This is a 24/7 operation close to residential housing please take into account what has already happened and try to make it better not worse
- Suggestions for speed limit restrictions, including 20mph signage along Middle Road to resolve speeding issues and Middle Road from sinking, the re opening of low road for access as is was originally designed for and noise mitigation measures for the current operations, e.g. the use of the old folk trucks

7.3 The site was advertised again as constituting a Major development and a departure from the development plan as well as informing the public of the receipt of additional/amended information and plans. The site was advertised in the press on Thursday 15<sup>th</sup> October 2020. Neighbour consultation letters were sent on Wednesday 7<sup>th</sup> October 2020 and four site notices were erected in vicinity of the site on the Wednesday 7<sup>th</sup> October 2020. The statutory end date for publicity was 5/11/2020.

7.4 One representation was received that was against the proposal. The redacted copy can be found on the council's website and are addressed within this report. In summary the following issues were raised:

- Already an existing noise and pollution issue
- Residents regularly complain to the Council regarding noise, particularly at night time
- The buildings are big, blue and very ugly as well as an eyesore
- Detrimental effect on the landscape, trees and wildlife in the area
- Disregard for the wellbeing of the residents
- The development will devalue neighbouring properties

7.5 Cllr Eric Firth has raised no objections to the proposal and considers the company to be a good employer.

7.6 Amendments made to the proposals during the life of the current application, and the additional information submitted did not necessitate public re-consultation.

7.7 The above public consultation has been carried out in accordance with the council's adopted Statement of Community Involvement.

7.8 Responses to the above comments are set out later in this report.

## **8.0 CONSULTATION RESPONSES:**

8.1 The following is a brief summary of consultee advice (more details are contained within the assessment section of the report, where appropriate):

## 8.2 **Statutory:**

Coal Authority: No objection. It is assumed that if these buildings have been constructed on site then all relevant pre-commencement planning conditions will have been complied and that the LPA were satisfied that the site was safe and stable for the development carried out.

The Environment Agency – No comment.

Yorkshire Water – No objection, subject to the relevant conditions (drainage etc.) imposed on the original permission (2013/90497) should be replicated.

KC Highways – No objection. Following the highways consultation response dated 20th May the applicants have provided a highways technical note prepared by Via Solutions. This Technical Note shows that the as built / current development proposals will generate 9 fewer vehicle movements in the network peak hours when compared to the larger development approved in 2013. Swept path analyses demonstrates that the largest anticipated vehicles (16.5 m articulated lorries) can enter and leave the site in forward gear. The level of parking provision on the site proposed satisfies the same tests as undertaken in 2013 and by ratio will provide a slightly higher level than that previously approved.

KC Lead Local Flood Authority – No objection, subject to the imposition of the relevant drainage related conditions.

## 8.3 **Non-statutory:**

KC Building Control – The works will require a building regulations application, as the site is well developed with a large roof area an satisfactory method of both roof water and hard standing runoff should be sought.

KC Design and Conservation – No comment.

KC Ecology – No objection.

KC Environmental Health – No objection, subject to the imposition of the relevant conditions, including a condition for a scheme required before the installation of scrubber unit commences (New noisy development close to existing noise sensitive use).

KC Landscape: No objection.

KC Planning Policy – No objection. The proposed application is the variation of condition 2. (plans and specifications) on previous permission no. 2013/90497 for erection of new industrial units. The application is located on the housing allocation HS46 of the Kirklees Local Plan. While in policy terms we would normally resist an employment use on a housing allocation, given the extant permission for industrial employment use on site, we would not object to the variation of condition.

KC Trees – No objection.

Northern Gas: No objection.

West Yorkshire Archaeology: No objection. Little Royd Mill, which lay within the development boundary, was demolished in 2013. Only a brief window was granted to record this important early 19th century mill with good surviving evidence of its original steam engine (West Yorkshire Historic Environment Record PRN 11425). According to archaeological records there is no other known archaeological potential in the vicinity. This along with the site's recent industrial use suggests there is unlikely to be any significant archaeological impacts within the application site. Therefore, in this instance, no further archaeological work is considered necessary.

West Yorkshire Police Crime Prevention: No objection, after the receipt of additional information. Recommends that the standards of doors and locking systems conform to the Secured by Design specifications.

## **9.0 MAIN ISSUES:**

- Principle of development
- Impact on visual and residential amenity
- Noise
- Highway and transportation
- Drainage
- Trees, landscaping and ecological considerations
- Ground conditions
- Representations

## **10.0 APPRAISAL:**

### Principle of development

- 10.1 Section 73 of the Town and Country Planning Act 1990 (as amended) and Government advice concerns the "Determination of applications to develop land without compliance with conditions previously attached", colloquially known as "varying" or "amending" conditions. S73 applications must also involve consideration of the conditions subject to which planning permission should be granted. Where an application under S73 is granted, the effect is the issue of a fresh grant of permission and the decision notice should list all conditions pertaining to it. The application cannot be used to vary the time limit for implementation.
- 10.2 It is important to note that when assessing S73 applications the previously granted planning permission is a significant material consideration, which impacts heavily on the assessment of the proposal. If the original application has been implemented, or if the permission has not yet expired, the applicant may go ahead and complete the original approved scheme if they wish.
- 10.3 In this particular case, the principle of significant development at this site has already been accepted by the Council. Information has been provided that demonstrates that development has commenced within the three-year period of the approval of 2013/90497. Development has not been constructed in accordance with the approved plans and the purpose of this application is to formalise such changes to the approved scheme. However, it should be noted that the company still has the fallback position to construct a scheme in accordance with the approved plans under the 2013 permission to which significant weight must be given.



- 10.4 Alterations to planning policy and other material considerations that have emerged since the original grant of planning permission are relevant and need to be considered. However, these must be considered in light of the matters discussed in the above paragraphs and the applicant's ability to complete the originally approved development.
- 10.5 The planning application site which includes the Magma Ceramics works site is not a designated or allocated employment area within the Kirklees Local Plan. However, when reviewing GIS maps it appears that this part of the site has long formed part of an established curtilage of an industrial works site.
- 10.6 Policy LP65 of the Kirklees Local Plan recognises this site as a housing allocation (Local Plan ID: HS46). The Local Plan sets out a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum. Therefore, this housing allocation with an indicative capacity of 40 dwellings over a net developable area of 1.16 hectares would contribute towards meeting the district's housing requirement within the plan period. It is unclear as to the applicant's intentions are with the works site within the plan period but the applicant has made it clear that they wish to currently invest in the site for industrial purposes.
- 10.7 If the site allocation is likely to come forward for housing development, then the majority of the Magma Ceramic works buildings would have to be demolished to facilitate such development.
- 10.8 Paragraph 12 of the NPPF states that:  
*"The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed."*
- 10.9 The local company, Magma Ceramics and Catalysts is a specialist manufacturer of high quality, precision-cast, ceramic components for the oil, gas and petrochemical industries and provides employment for 60 persons. As such, it can be considered that the company makes a significant economic contribution to the local community and the wider Kirklees district.
- 10.10 Officers consider that the approval of this S73 application is necessary to support the operational requirements of the company. In turn, the current mutual local economic benefits would justify a departure from the Local Plan in this instance, in accordance with paragraph 80 of the NPPF, which states:  
*"Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation<sup>40</sup>, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential."*

10.11 Given the above reasons, the principle of allowing this variation of condition application is acceptable, in accordance with legislation under Section 73 of the Town & Country Planning Act 1990 (as amended) and Government advice in dealing with material alterations to existing planning permissions.

#### Impact on visual and residential amenity

10.12 Approval was granted in 2013 under planning application reference: 2013/90497 for the erection of industrial development, which consisted of the following:

- Phase 1. A building of 1,000sqm attached to an existing building in the North East corner of the site, and the existing entrance off Low Street. This building is 6m in height to eaves and 8m to the ridge and constructed of profile steel composite panels coloured ocean blue.
- Phase 2. A new building attached to an existing building in the centre of the site. Floor area of 2,038sqm, with an eaves height of 6m and 8m to the ridge, the building to be constructed of profile steel panels coloured ocean blue.
- Phase 3. This phase comprises 2 buildings as follows:
  - Building 1- 829sqm and to be located on the site of the original Little Royd Mill on the eastern edge of the site (this building has already received permission for demolition). The building will be 6m to eaves and 8m to ridge and constructed of profile steel sheeting coloured Ocean Blue.
  - Building 2- New free standing building, 3,764sqm, with a multi pitched roof, 6m to eaves and 8m to the ridge heights, to be built of profile steel sheeting coloured Ocean Blue. This is the largest building on the site and is located on the western portion of the site at nearest the boundary with the cycleway.
- A new parking and storage areas around the site associated with specific structures. A total of 110 parking spaces are proposed.

10.13 The supporting Design and Access Statement explains that following the 2013 approval the business commenced a build programme. Specific size and operational requirements of the sheds however changed from that approved to that which were subsequently built.

10.14 The following explains what has and has not been developed and altered in relation to the approved plans for 2013/90497:

- Phase 1 has already been constructed and completed.
- Phase 2 (Now noted as Phase 4 in the supporting information) has yet to be constructed. It is proposed that a new building will still be attached to the existing building in the centre of the site. A revised built form and scale of building is proposed, with floor plan area of 1,549sqm, with an eaves height of 10m and a ridge height of 13.5m. The building is still to be constructed of Ocean Blue profile steel panels with brick plinth, door and vehicular openings and rooflights.
- Phase 3 Building 1 is not to be built due to potential land stability issues from the land to the east. The existing building has been demolished and the retaining wall has been retained and made good. The area is to be used for car parking.

- Phase 3 Building 2 (Now noted as Phase 2 in the supporting information) has been constructed but now consists of two buildings next to one another to the north west of the site.
  - Defined in the supporting information as Block A, this block has a floor area of 1,913sqm, with an eaves height of 8.5m and a ridge height of 11.5m.
  - Defined in the supporting information as Block B, this block has a floor area of 1,038sqm, with an eaves height of 6.5m and a ridge height of 7.7m.

Both buildings have been constructed of Ocean Blue profile steel panels with door and vehicular openings and rooflights.

10.15 For phase 2 there would be an overall reduction in the proposed floor space by 489qsm, but the building would have a greater height. For phase 3 there is also a reduction in the proposed floor space by 1,642sqm. However, the two buildings are greater in building height and are now sited within the north west corner of the site, instead of along the eastern edge.

10.16 As part of this application, the applicant has also proposed the construction of an external odour abatement scrubber package unit to the southern end of the recently constructed building, where Phase 3 Building 2 was approved under reference 2013/90497 (Now noted as Phase 2 Building A in the supporting information). The unit has a maximum height of 12.2m and comprises of external extract ducts linked to the adjacent building. It is understood that this location is chosen in consultation with Environmental Health as is the furthest away from the nearest residential units located on Low Road to the east of the site. Its location is also shielded by Building A which is considerable in size with an eaves height of c8.5m. The unit will be operated 24/7 in line with the site as a whole. This feature is considered necessary for the site's operation and is ancillary to the existing industrial use. Officers consider the proposed scrubber unit acceptable from a visual amenity perspective, given it shall be located within the site and read as part of the wider industrial development.

10.17 The proposed changes to the design, form and fenestrations of the buildings would still result in a functional appearance, in character with the other existing industrial and commercial buildings on the site. As such, officers still consider such design changes still accord with Local Plan Policy LP24 and NPPF Chapter 12.

10.18 The site is on a slope and surrounded by significant areas of greenery and woodland. The site can also be viewed from distance especially from the west along the banks of the River Calder. At present the appearance is of an industrial group of buildings surrounded by greenery on a hillside. Planning application reference 2013/90497 established the principle for the proposed spread of industrial and commercial development across the site.

10.19 Officers consider that there would be no greater impact on visual and residential amenity than what has already been approved. It is acknowledged that the proposed buildings and structures are of a greater in height than what is approved. However, it is considered that the site can accommodate these built forms as they are set on lower ground and at sufficient distance to the nearby residential dwellings. For instance, the proposed industrial buildings are set on ground at approximately 50m AOD and the houses at Low Road and Middle Road are set at around 60m AOD and 65m AOD, respectively. There is an acceptable separation distance of 29 metres between the nearest

residential dwelling house at Low Road and the nearest newly constructed building. The site also benefits from dense boundary vegetation. Furthermore, there is an overall reduction in floor space and the proposed eastern building closest to dwelling houses on Low Road and Middle Road is no longer to be constructed. Thus, officers consider that the amended proposals would not be an unacceptable impact on residential amenity in accordance with Local Plan Policy LP24 and NPPF Chapter 12.

### Noise

- 10.20 There are a small number of dwellings in the vicinity, most notably 3 dwellings on Preston Street, and a terrace of properties on Low Lane. The Preston Street properties are next to the main vehicle access, and the Low Lane properties are in an elevated position relative to the application site. The original application was accompanied by a Noise Report dealing with the potential noise emissions from the site in relation to neighbouring residential properties. It considered the issues of potential noise arising from both the extra factory space applied for, and any additional vehicle movements.
- 10.21 The Noise Report recognised existing background noise levels along the exiting eastern boundary of the site. A condition was proposed which sought to ensure that the existing noise levels, which were deemed to be acceptable were not increased as a result of the new development. These noise levels vary between different times of the day. It is recommended that a condition stating the same noise levels be implemented for this application.
- 10.22 It is not feasible, given that there are already a significant number of existing buildings, and one that has been constructed as permitted development, to impose an effective condition restricting the hours of use of the entire site particularly as this would also be restrictive to the firm's future plans. A condition was imposed as part of the original planning permission, to control the hours of use for delivery, dispatch and loading within the site. Thus, ensuring as far as possible that work outside of the existing buildings and vehicle movements at anti- social hours was minimised. This condition was subsequently discharged under application reference 2016/92974. The proposed hours of use for delivery / dispatch of - 08.00am-18.00pm, were considered acceptable, and satisfactorily to discharge this condition. As such, it is recommended that a compliance condition reflecting these hours should be applied to this application.
- 10.23 Some objectors have complained about the use and movements of folk lift trucks within the site. Officers do not believe this is relevant to this application. It is understood that this issue has been complained about to Environmental Health before, but officers have not established there to be a nuisance. Folk lift truck movements are supposed to be restricted at night, but Environmental Health can investigate any complaints under Statutory Nuisance legislation if provided with details of dates and times when residents are being disturbed.
- 10.24 As part of this application, the company are now wishing to install a scrubber system on site to replace an existing system. The existing system has been subject of an Abatement Notice for noise which resulted in part of the system being relocated inside a building in order to reduce the noise emitted to an acceptable level. Noise monitoring has been carried out by an independent consultant on behalf of Magma Ceramics and a Noise Report has been produced. This has included the monitoring of background noise levels in the

vicinity of the nearby residential premises and of various existing noise sources associated with activities on the site.

- 10.25 Environmental Health have reviewed the submitted information and requested a new planning condition in order to protect the amenity of nearby noise sensitive premises. It is requested that the new scrubber unit be designed so background noise levels are not increased. The BS4142:2014 assessment in the noise report indicates that provided the Cumulative Plant Rating Noise Limit Level as specified within the report and recommendations in the report are adhered to, the Rating Noise Level should be 5.0 dB below the background sound level. The background noise level at night (23:00 to 07:00) was measured at 42dB LA90, therefore the noise limit level for any new plant (cumulatively) must be 37dB as measured at the boundary of the site. The applicant has provided additional information in the form of email correspondence in response to the comments made by Environmental Health but officers still consider such condition necessary to protect residential amenity.
- 10.26 As mentioned previously, there are also significant level differences between the site and dwellings on Low Lane. All of the proposed buildings and structures are a significant distance from any habitable room windows in those dwellings. As such, with the imposition of the same noise related conditions the proposal is still considered to be acceptable when considering Local Plan Policies LP21, LP24, LP52 and NPPF Chapter 15

#### Highways and transportation

- 10.27 In terms of highway impact, the supporting information claims that the proposed changes would result in the generation of around 9 fewer vehicle movements in either peak period than the level approved previously. Swept path analyses of the amended internal layouts of the site show that the largest vehicle anticipated on site can turn within the space available.
- 10.28 The layout provides a total of 95 car parking spaces, which is fewer than the approved layout for 110 parking spaces. However, due to a decrease in the proposed industrial/commercial floor space area, the level of proposed parking provision on the site still satisfies the same tests as undertaken in 2013 and by ratio will provide a slightly higher level than that previously approved.
- 10.29 During the course of the application the applicant has paid the Council the relevant financial contributions to facilitate the necessary travel plan monitoring, as part of the section 106 agreement under application reference 2013/62/90497/E. The applicant has also provided details regarding the location and number of cycle parking spaces.
- 10.30 Residents have raised concerns regarding traffic, particularly along Middle Road. These concerns are noted, however the proposed development would not result in a material intensification of use when compared with the 2013-approved development, and anticipated vehicle movements are expected to be lower than those previously considered.
- 10.31 No objections have been raised by Highways Development Management. It is considered that the application would accord with Policies LP20, LP21 and

LP22 of the Local Plan as well as Chapter 9 of the National Planning Policy Framework.

### Drainage

- 10.32 The Design and Access Statement explains how foul drainage from the buildings connects into the onsite foul drainage system. Surface Water drainage from the buildings connects into the onsite surface water system, which incorporates attenuation which restricts outflow from the site to a level agreed with Yorkshire Water.
- 10.33 At the request of the Lead Local Flood Authority (LLFA), a site wide private drainage plan, a plan showing the impermeable areas of the works site, supporting micro-drainage calculations and a management and maintenance plan have now been provided.
- 10.34 The LLFA and Yorkshire Water have reviewed the submitted information and consider it necessary for the re-imposition of the relevant drainage related conditions that were previously discharged under reference 2016/92974. The LLFA require these conditions because the latest information provided by Yorkshire Water and the applicant, suggests there is uncertainty around the present location of the sewer and culvert, which will be the ultimate discharge point from the site. The only system on any recorded plans and records is the Yorkshire Water surface water sewer, it is believed that system outfalls into a culvert. Tracing of that sewer showed a significant blockage that prevented further survey, this blockage, and any others that are found, need to be removed and the full system surveyed to understand where the sewer and culvert run and ultimately where they connect into/outfall. As a result of not knowing the condition and suitability of a new connection to the sewer, the design of the on-site drainage cannot be finalised as this might prove not to be a suitable connection point. Therefore, the appropriate conditions are considered necessary to ensure that the surface water system is achievable and that it will be managed responsibly and not generate risks to third parties.
- 10.35 It is understood that the building is yet to gain building regulations approval. In addition, the existing internal drainage across the site is affected by the development and one of the water mains will require diversion. As such, the applicant will be required to submit an application to the Yorkshire Water Authority under the Water Industry Act 1991. However, from a planning perspective it is considered that subject to the necessary planning conditions, the planning application accords with Local Plan policies LP27 and LP28 as well as NPPF Chapter 14.

### Trees, landscaping and ecological considerations

- 10.36 During the course of the planning application a revised landscape scheme was submitted. At the request from the landscape officer, the scheme was subsequently amended to respect existing landscape features and to ensure that the proposed planting of trees was not too close to the site boundaries. This was to ensure that the landscape scheme avoided obtaining future complaints from neighbouring land owners.
- 10.37 The application site is in the bat alert layer on the Council's Mapping System. The Council's Ecology Officer has reviewed the proposal and does not raise any objections.

10.38 The tree officer has no objections to the proposals.

10.39 As such, subject to the imposition of the necessary conditions in relation to the landscape and trees, it is considered that the proposal would accord with Local Plan Policies LP24, LP30, LP32 and LP33 of the Local Plan.

#### Ground conditions

10.40 The site falls within a Development High Risk Area for coal mining features. The Coal Authority have commented and stated that the original application, to which this variation relates, was supported by a Phase I Desk Top Study, dated 25 January 2013 and prepared by JNP Group, which it is assumed the applicant commissioned. The competent persons who prepared this report identified a potential risk posed by past coal mining activity and recommended that intrusive site investigations be carried out prior to commencement of the development.

10.41 The Coal Authority have no objection to the variation of Condition 2 as they assume that as these buildings have been constructed on site then all relevant pre-commencement planning conditions will have been complied and that the LPA were satisfied that the site was safe and stable for the development carried out. On this basis they have no specific comments to make on the variation of Condition 2.

10.42 A Phase II Land Contamination Site Investigation Report accompanies the planning application. It concludes that the made ground on the site poses a risk to human health. It states how the water mains may not be laid in the made ground on the site without remediation. Made ground on the site also poses a risk to flora. The report proposes remediation works in order to break the pollution linkages associated with the end users with a 300mm cover underlain by a geotextile required on any landscaped areas on the site. It explains how the hard-standing will break the pathways. The remediation proposed for the end users will also break the pathways relating to flora. Conditions as part of the original permission requiring remediation and validation reports are yet to be discharged. As the proposal is yet to be completely constructed such information can be secured with the imposition of the same planning conditions.

10.43 Therefore, subject to the imposition of the necessary conditions in relation to land contamination it is considered that the proposal would accord with Local Plan Policy LP53 the Local Plan as well as NPPF Chapter 15.

#### Climate Change

10.44 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.

10.45 Chapter 14 of the NPPF 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 the NPPF as a core land use planning principle. The NPPF emphasises that responding to climate change is central to economic, social and environmental dimensions of sustainable development. The building is located outside any ecological or environmentally sensitive areas. The building provides site workers with convenient and necessary facilities that are of social benefit. Furthermore, the building helps support the wider Magma Ceramics works which has a key economic role in the local community.

10.46 In response to the Climate Change Emergency, the Design and Access Statement provides the following:

- *“The company is ISO14001 certified with an integrated QHSE management system.*
- *The company is considering the introduction of electric car charging points to sit alongside their support for cycle purchase schemes.*
- *The surface water drainage scheme restricts outflow from the site in accordance with Yorkshire Water requirements through the incorporation of onsite attenuation.”*

10.47 Officers consider that climate change has been adequately considered as part of this application.

### Representations

10.48 A total of six representations were received, from neighbouring properties. The issues raised are summarised below, together with an officer response:

- Inconsiderate neighbours and surrounding environment
  - The people and the natural environment cannot cope with anything else
  - Disregard for the wellbeing of the residents
  - Unsightly factory
- Officer response:** These comments are noted.
- Speeding traffic day and night, including heavy and larger HGVs and other large vehicles
  - Since expansion there has been an increase in the volume of traffic, which will increase further with increase in suppliers deliveries and obviously more and more personnel to the site on a daily basis
  - Roads (particularly Middle Road) are already decaying, badly uneven with inadequate footpath provision and unsuitable for the increase in HGV traffic,
  - Vibration to roadside properties and an increase in such traffic would make residence in Middle road even more intolerable
  - Suggestions for speed limit restrictions, including 20mph signage along Middle Road to resolve speeding issues and Middle Road from sinking,



the re opening of low road for access as is was originally designed for and noise mitigation measures for the current operations, e.g. the use of the old folk trucks

**Officer response:** Some of the above matters were raised during the determination of the original application. At the time (as is considered now) it was considered that the increase in numbers of vehicles, as a result of the development, would not be at a level that will have any undue impact upon the safe use of the surrounding network, or any users of the recently completed greenway next to the sites access. The application is supported by a Highway Technical Note. Highways Development have reviewed this document as well as been made aware of the concerns expressed by neighbouring residents. However, no objections have been raised.

- Disregard for light, noise and particulate pollution not to mention odour would again be a warning sign for ANY expansion of the site
- This is a 24/7 operation close to residential housing please take into account what has already happened and try to make it better not worse
- Already an existing noise and pollution issue
- Residents regularly complain to the Council regarding noise, particularly at night time

**Officer response:** The principle of development has already been established. This S73 application would result in an overall reduction in the proposed industrial/commercial space, with buildings sited further away from the eastern boundary where the nearest properties are located. No objections have been raised by Environmental Health. The site is yet to be fully constructed and it is considered that the necessary planning conditions can control any adverse impact on residential amenity.

- The buildings are big, blue and very ugly as well as an eyesore  
**Officer response:** Design is a subjective matter but it is acknowledged that the buildings and structures have a functional appearance that serves the needs of its industrial use. However, officers consider the proposed design similar to what has already been approved and to be inoffensive when viewed together in its context.
- Detrimental effect on the landscape, trees and wildlife in the area  
**Officer response:** The proposal consists of works within the grounds of the Magma Ceramics works site, which is an existing industrial works site. The site is not recognised for its ecological or landscape qualities and no objections have been raised by any consultees regarding these matters.
- The development will devalue neighbouring properties  
**Officer response:** This is not a valid planning reason for refusal.

#### Planning obligations

- 10.49 As part of the original planning application (Reference: 2013/90497) a Unilateral Undertaking was completed, which secured a £15,000 towards Travel Plan Monitoring. During the course of the application this outstanding contribution was paid by the applicant and as such, no further financial contributions are sought.

## Conditions

- 10.50 S73 of the Town and Country Planning Act 1990 allows the Local Planning Authority to review the previously-applied conditions (attached to the previous permission ref: 2013/90497, approved on 04/10/2013), and to update, revise, add to or delete redundant conditions as part of the assessment of the current application. Those conditions would normally be re-applied in any subsequent approval of a S73 application, as the effect of the S73 approval is the issue of a fresh grant of permission. It is, however, appropriate to review those conditions before they are re-applied in light of the council's decisions made since the original permission was granted. Several of the conditions under application reference: 2016/92974 have been discharged, therefore their wording should be amended to remove the need for resubmissions of previously approved details.
- 10.51 Each of the 24 conditions of permission ref: 2013/90497 is considered as follows:
- Condition 1 (Three years to commence development):
    1. *The development shall be begun not later than the expiration of three years beginning with the date on which permission is granted.*  
**Reason:** Pursuant to Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Order 2004  
**Assessment:** As permission ref: 2013/90497 has been implemented (development commenced with the demolition of the site's existing buildings), this condition does not need to be re-applied.
  - Condition 2 (Approved plans and documents)
    2. *The development hereby permitted shall be carried out in complete accordance with the approved plans and specifications except as may be required by other conditions.*  
**Reason:** So as to ensure the satisfactory appearance of the development on completion.  
**Assessment:** Although the applicant proposes a variation under this condition, the wording of the condition would not change. The list of drawings and documents on the new decision letter would be varied to include the drawings and documents illustrating and supporting the proposals detailed in this report.
  - Condition 3 (Building materials)
    3. *No development shall take place until samples of all facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority, and the development shall be constructed of the approved materials.*  
**Reason:** In the interests of visual amenity and to comply with Policy D2 of the Unitary Development Plan.  
**Assessment:** Under application reference: 2016/92974 the use of Kingspan- Insulated Roof and Walling was considered acceptable as was the colour blue, and thus this condition was discharged. Therefore, this condition would be reapplied as a compliance condition to reflect the approved building materials, together with an updated policy reasoning.
  - Condition 4 (Boundary treatments)
    4. *Prior to the development commencing details of the boundary treatments shall be submitted for the written approval of the Local*

*Planning Authority. The approved boundary treatments shall be implemented prior to any units of the development hereby approved being brought into use.*

**Reason:** *In the interests of visual amenity and to comply with Policy D2 of the Unitary Development Plan.*

**Assessment:** Under application reference: 2016/92974 the use of 1.8m green coated fencing, as used on neighbouring greenway, was considered acceptable, and satisfactorily to discharge this condition. Therefore, this condition would be reapplied as a compliance condition to reflect the approved boundary treatment, together with an updated policy reasoning.

- Condition 5 (Landscape details)

*5. No development shall take place until a comprehensive scheme for landscaping treatment of the site has been submitted to and approved in writing by the Local Planning Authority.*

**Reason:** *In the interests of the visual amenity of the area and to comply with Policy D2 of the Unitary Development Plan.*

**Assessment:** Although this condition was discharged (subject to implementation and maintenance) under application ref: 2016/92974, the approved landscaping details have been superseded by the amended layout and landscape scheme submitted under the current application. The latest landscape scheme is considered acceptable by officers. Condition 5 will therefore need to be reapplied as a compliance condition to reflect the approved landscape plan, together with an updated policy reasoning.
  
- Condition 6 (Planting, seeding or tree management works)

*6. Any planting, seeding or tree management works forming part of the landscaping scheme referred to in Condition 5 shall be carried out during the first planting, seeding or management season following the commencement of development, or as otherwise may be agreed in writing by the Local Planning Authority, and shall be maintained for a period of five years from the completion of planting works. All specimens which die within this period shall be replaced.*

**Reason:** *In the interests of visual amenity and to comply with Policy D2 of the Unitary Development Plan.*

**Assessment:** This is a compliance condition and would be reapplied, together with an updated policy reasoning.
  
- Condition 7 (Drainage details)

*7. Development shall not commence until a scheme detailing foul, surface water and land drainage, (including off site works, outfalls, balancing works, plans and longitudinal sections, hydraulic calculations, phasing of drainage provision, existing drainage to be maintained / diverted / abandoned, and percolation tests, where appropriate) has been submitted to and approved in writing by the Local Planning Authority. None of the dwellings shall be occupied until such approved drainage scheme has been provided on the site to serve the development or each agreed phasing of the development to which the dwellings relate and thereafter retained throughout the lifetime of the development.*

**Reason:** *In the interests of the satisfactory drainage of the site and to comply with Policy D2 (ix) of the Unitary Development Plan.*

**Assessment:** This condition was discharged (subject to implementation) under application ref: 2016/92974. However, given the reasons in paragraph 10.34 of the report, and the revisions proposed under the current application will result in implications in relation to drainage and

flood risk. Therefore, it is appropriate to re-apply condition 7 and further discharge will need to be sought by the applicant. Given the proposed development has already commenced this condition shall need to be re-worded to require these details to be submitted where relevant but with a new trigger point. The condition shall also be updated with the latest policy reasoning.

- Condition 8 (Separate drainage)  
*8. The site shall be developed with separate systems of drainage for foul and surface water on and off site.*  
**Reason:** *In the interests of the satisfactory drainage of the site and to comply with Policy D2 (ix) of the Unitary Development Plan.*  
**Assessment:** This is a compliance condition and would be reapplied, together with an updated policy reasoning.
- Condition 9 (Flow restriction and surface water attenuation)  
*9. Development shall not commence until a scheme restricting the rate of surface water discharge from the site to a maximum of 70% of the existing pre-development flow rate to the same outfall, has been submitted to and approved in writing by Local Planning Authority. Where existing drainage cannot be demonstrated the scheme should restrict the rate of surface water discharge to 'greenfield rates' agreed with the Local Planning Authority. The drainage scheme shall be designed to attenuate flows generated by the critical 1 in 30 year storm event as a minimum requirement. Volumes generated in excess of the 1 in 30 year critical storm up to and including the critical 1 in 100 year storm events, with an appropriate allowance for climate change shall be stored on site in areas to be approved in writing by the Local Planning Authority. The scheme shall include a detailed maintenance and management regime for the storage facility including the flow restriction. There shall be no piped discharge of surface water from the development and no part of the development shall be brought into use until the flow restriction and attenuation works comprising the approved scheme have been completed. The approved maintenance and management scheme shall be implemented throughout the lifetime of the development.*  
**Reason:** *In the interests of the satisfactory drainage of the site and to comply with Policy D2 (ix) of the Unitary Development Plan.*  
**Assessment:** This condition was discharged (subject to implementation) under application ref: 2016/92974. However, given the reasons in paragraph 10.34 of the report, and the revisions proposed under the current application will result in implications in relation to drainage and flood risk. Therefore, it is appropriate to re-apply condition 9 and further discharge will need to be sought by the applicant. Given the proposed development has already commenced this condition shall need to be re-worded to require these details to be submitted where relevant but with a new trigger point. The condition shall also be updated with the latest policy reasoning.
- Condition 10 (Flood Routing)  
*10. The development shall not commence until an assessment of the effects of 1 in 100 year storm events, with an additional allowance for climate change, on drainage infrastructure and surface water run-off pre and post development between the development and the surrounding area, in both directions, has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be brought*

*into use (dwellings shall not be occupied) until the works comprising the approved scheme have been completed and such approved scheme shall be retained thereafter throughout the lifetime of the development.*

**Reason:** *In the interests of the satisfactory drainage of the site and to comply with Policy D2 (ix) of the Unitary Development Plan.*

**Assessment:** Further information was sought under application ref: 2016/92974 and as such this condition was not discharged. However, a Flood Route Plan accompanies this planning application to the satisfaction of the Lead Local Flood Authority. As such, condition 10 can be reapplied as a compliance condition, together with an updated policy reasoning.

- Condition 11 (Interceptor for the car parks)

*11. Development shall not commence until a scheme, detailing the treatment of all surface water flows from parking areas and hard standings through an oil interceptor, (or a full petrol oil interceptor) reed bed or alternative treatment system, has been submitted to and approved in writing by the Local Planning Authority. Use of the parking areas/hard standings shall not commence until the works comprising the approved treatment scheme have been completed. Treatment shall take place prior to discharge from the treatment scheme. The treatment scheme shall be retained, maintained to ensure efficient working and used throughout the lifetime of the development. Roof water shall not pass through the interceptor.*

**Reason:** *In the interests of the satisfactory drainage of the site and to comply with Policy D2 (ix) of the Unitary Development Plan.*

**Assessment:** Further information was sought under application ref: 2016/92974 and as such this condition was not discharged. A Preliminary Drainage Plan accompanies this application and shows the use of a petrol interceptor. However, as the detailed design of drainage is not yet agreed it is appropriate to re-apply condition 9 and further discharge will need to be sought by the applicant. Given the proposed development has already commenced this condition shall need to be re-worded to require these details to be submitted where relevant but with a new trigger point. The condition shall also be updated with the latest policy reasoning.

- Condition 12 (Arboricultural Assessment)

*12. The development shall be completed in accordance with the advice and recommendations contained in the Arboricultural Assessment ref (D29051211357). These shall be implemented and maintained throughout the construction phase and retained thereafter.*

**Reason:** *To safeguard mature trees on the site and comply with Policy NE9 of the Unitary Development Plan.*

**Assessment:** This is a compliance condition. To be reapplied, together with an updated policy reasoning.

- Condition 13 (Protective fencing)

*13. Prior to the development commencing protective fencing in accordance with British Standard BS 5837 shall be erected around all protected trees and retained on the site.*

**Reason:** *To safeguard mature trees on the site and comply with Policy NE9 of the Unitary Development Plan.*

**Assessment:** This is a compliance condition. To be reapplied, together with an updated policy reasoning.

- Condition 14 (Phase 2 Intrusive Site Investigation Report)

*14. Development shall not commence until a Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the Local Planning Authority.*

**Reason:** *To ensure the site is fit to receive the new development in accordance with Policy G6 of the Unitary Development Plan.*

**Assessment:** A Phase II Report was submitted under application ref: 2016/92974 and was subsequently discharged. Condition 14 can therefore be reapplied, but as a compliance condition, together with an updated policy reasoning.
- Condition 15 (Remediation Strategy)

*15. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 14, development shall not commence until a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.*

**Reason:** *To ensure the site is fit to receive the new development in accordance with Policy G6 of the Unitary Development Plan.*

**Assessment:** This condition is undischarged. Given the proposed development has already commenced this condition shall need to be re-worded to require these details to be submitted where relevant but with a new trigger point. The condition shall also be updated with the latest policy reasoning.
- Condition 16 (Unexpected remediation)

*16. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 15. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered [in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report] is identified or encountered on site, all works on site (save for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Unless otherwise agreed in writing with the Local Planning Authority, works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.*

**Reason:** *To ensure the site is fit to receive the new development in accordance with Policy G6 of the Unitary Development Plan.*

**Assessment:** This is a compliance condition that will be re-applied, together with an updated policy reasoning.
- Condition 17 (Validation Report)

*17. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the local planning authority. Unless otherwise agreed in writing with the Local Planning Authority, no part of the site shall be brought into use until such time as the remediation measures for the whole site have been completed in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the Local Planning Authority.*

**Reason:** To ensure the site is fit to receive the new development in accordance with Policy G6 of the Unitary Development Plan.

**Assessment:** This condition is undischarged. To be re-applied with updated policy reasoning.

- Condition 18 (Noise)

18. Noise emitted from the development hereby permitted shall not exceed:  
50dBL<sub>Aeq</sub>(1hour) from 07.00hours to 19.00hours;  
45dBL<sub>Aeq</sub>(1hour) from 19.00hours to 23.00hours; and  
40dBL<sub>Aeq</sub>(5minutes) from 23.00 hours to 07.00hours on any day  
As measured between points A-B; and C-D (as marked on the Location plan L01)  
At all other points to the boundary the noise emitted from the site shall not exceed 50dBL<sub>Aeq</sub> (1 hour) at any time of the day.  
**Reason:** In the interests of residential amenity and to comply with Policy EP6 of the Unitary Development Plan.  
**Assessment:** This is a compliance condition. To be re-applied with updated policy reasoning.
- Condition 19 (Phasing plan)

19. Prior to the commencement of development, details of the phases of the development shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include the areas for parking turning and loading/unloading in relation to each part of the development. The development shall be carried out in accordance with the approved details of the phasing, unless any variation or amendment has been first agreed in writing by the Local Planning Authority.  
**Reason:** In the interests of the safe and free use of the highway and to accord with Policies T10 and T19 of the Unitary Development Plan.  
**Assessment:** This condition was discharged under application ref: 2016/92974. However, as part of this application an updated phasing plan (Reference: '3161-105W – Phasing plan') has been produced to reflect the proposed changes to condition 2. This phasing plan is considered acceptable. Condition 19 can therefore be reapplied, but as a compliance condition, together with an updated policy reasoning.
- Condition 20 (Phasing of development)

20. Each phase of the development shall not be brought into use until all area used for access, parking and turning for each phase as shown on the approved plans have been marked out and laid out and drained.  
**Reason:** In the interests of the safe and free use of the highway and to accord with Policies T10 and T19 of the Unitary Development Plan.  
**Assessment:** This is a compliance condition. To be reapplied with updated policy reasoning.
- Condition 21 (Cycle parking)

21. The development shall not be brought into use until secure and sheltered cycle parking spaces have been provided in accordance with details that have been submitted to and approved in writing by the Local Planning Authority, the approved facilities shall thereafter be retained free of obstructions and available for cycle parking throughout the lifetime of the development.  
**Reason:** To comply with the guidance contained in Part 4 of the National Planning Policy Framework "Promoting Sustainable Transport ".

Assessment: Details have been provided with this application which are considered acceptable for the purposes of this planning condition. Condition 21 can therefore be reapplied, but as a compliance condition, together with an updated policy reasoning.

- Condition 22 (Retaining wall)

*22. Prior to any works commencing adjacent to Middle Road, details of the proposed works necessary to demolish an existing building and the erection of a new industrial unit shall be submitted to and approved in writing by the Local Planning Authority. The details shall include a design statement, all necessary ground investigations on which design assumptions are made, method statements for both temporary and permanent works including the removal of any bulk excavations together with relevant sectional and structural details and all associated safety measures for the protection of the adjacent public highway. The approved works shall be implemented throughout the lifetime of the development, unless otherwise agreed in writing by the Local Planning Authority.*

**Reason:** *In the interests of the free and safe use of the public highway in accordance with Policy T10 of the Unitary Development.*

Assessment: Information has been provided to the satisfaction of the Highways Authority. As such, this planning condition can be discharged and is not required.

- Condition 23 (Time periods for dispatch and delivery)

*23. Prior to development commencing a scheme detailing the times and time periods for delivery and despatches (including periods for loading) from the site shall be submitted for the written approval of the Local Planning Authority. In addition the above details for routing of the delivery/dispatch vehicles (both for arrival and departure) shall form part of the approved details. Unless otherwise agreed in writing the approved details shall be implemented for the lifetime of the development.*

**Reason:** *In the interests of the free and safe use of the highway and the protection of residential amenities of neighbouring dwellings.*

Assessment: Details were provided that were considered acceptable under application reference: 2016/92974. Condition 23 can therefore be reapplied, but as a compliance condition, together with an updated policy reasoning.

10.52 Renumbering of the conditions is not recommended. It is also recommended that the same footnotes in relation to highways structures and obstruction to nearby public rights of way are included in any decision notice.

## 11.0 Conclusion:

11.1 This application does not provide an opportunity to revise or reconsider the original grant of planning permission. This application only relates to the consideration of the variation and deletion of conditions as indicated.

11.2 The development would help to secure the continued operation of a long established local business, safeguarding employment opportunities in a sustainable location where there are other similar uses. The potential for any adverse impacts highlighted by representations have been considered and are proposed to be mitigated by the imposition of appropriate conditions that were previously agreed as part of planning application reference 2013/90497.



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)**

12.1 As detailed in paragraph 10.51.

12.2 In addition, as detailed in section 10.0 of this report, officers recommend the imposition of the following planning condition:

*“The installation of the mechanical plant shall not begin until details a sound insulation scheme, designed to protect the amenity of occupants of Carlton Terrace, Low Road and Middle Road from noise emitted from the application premises, has been submitted to and approved in writing by the Local Planning Authority. The use hereby approved shall not commence until the works comprised within the approved sound insulation scheme have been completed and those works shall be retained thereafter.”*

**Reason:** *In the interests of residential amenity and to comply with Policies LP24 and LP52 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.”*

**Background Papers:**

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020/90988>

Certificate of Ownership – Certificate A signed