
Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 27-Jan-2021

Subject: Planning Application 2020/90710 Partial demolition, partial re-build, erection of extensions and alterations to mill to form 63 apartments and erection of 64 dwellings (Within a Conservation Area) Westwood Mill, Lowestwood Lane, Linthwaite, Huddersfield, HD7 5RR

APPLICANT

Westwood Wilson Ltd

DATE VALID

05-Mar-2020

TARGET DATE

04-Jun-2020

EXTENSION EXPIRY DATE

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Colne Valley

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to:

- Obtain confirmation from the Environment Agency that the amendment to the site layout, as referred to within this report, does not materially alter compensatory flood storage;

- Complete the list of conditions, including those contained within this report; and

- Secure a S106 agreement to cover the following matters:

1. Arrangements for the future maintenance and management of the areas of public open space, mill pond, settling pond and other areas of land that do not fall within private curtilage.

2. Arrangements for the future maintenance and management of drainage infrastructure within the site.

3. Phasing of the development, including the restoration of the listed building within the first phase.

4. Overage clause in relation to the cost of the conversion of the listed building.

5. £17,000 contribution towards off-site highway improvements.

6. £73,000 towards education provision.

7. On-site open space inspection fee (£1,000).

8. Secure the dedication of the proposed public right of way through the site.

In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Planning and Development shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

1.0 INTRODUCTION:

1.1 The application is brought forward to the Strategic Planning Committee because of the scale of residential development proposed. This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

- 2.1 Westwood Mill is located in the bottom of the Colne Valley and is sandwiched between the River Colne to the south and the Huddersfield Narrow Canal to the north. Low Westwood Lane runs across the valley and provides the access to the site. The site comprises of a complex of historic mill buildings and structures that are in a very poor state of repair and have previously been subject to emergency action to stabilise them.
- 2.2 The site lies in the Linthwaite Conservation Area. The existing mill buildings and structures do not lie in the Green Belt but land on either side to the east and west comprises Green Belt land.
- 2.3 There are five Grade II* listed buildings and structures within the Westwood Mill complex. These are: -
- East block of Westwood Mills - Warehouse and workshop range – early 19th Century with later additions.
 - Office and workshop range at Westwood Mills – Office and workshop range – early 19th Century with later additions.
 - Boiler house and engine house and rope race, water tower and powerhouse at Westwood Mills.
 - West Block at Westwood Mills – Scribbling, carding and fulling mill
 - Mill dam – 1801 – pond also supplied water to the small mill dam at Lower Mill to the south-east now called Titanic Mill.
- 2.4 There is a large Grade II listed building towards the east of the site (Titanic Mill) which contains apartments and a spa. To the south of the site, on the opposite side of the river, is some commercial development. To the north of the canal is a mixture of undeveloped land and residential development with the railway line beyond. To the west of the site is greenfield land.

3.0 PROPOSAL:

- 3.1 The proposal is for the full restoration of the listed mill buildings to form 63 apartments together with the erection of 64 new build dwellings (127 dwellings in total).
- 3.2 The new build dwellings form six distinct blocks of terraced dwellings which are located on both sides of the listed buildings. The new build dwellings would be a mixture of three and four storeys in height, with a proportion of the dwellings being split level.
- 3.3 The works to the listed buildings involve the partial demolition, rebuild and extension of the listed buildings.
- 3.4 The scheme includes the restoration of the original mill pond and the provision of a swathe of open space towards the west of the site. The settling pond immediately adjoining Lowestwood Lane would be retained and restored.

4.0 RELEVANT PLANNING HISTORY:

4.1 The following applications relate to the application site:

2020/90711 Listed Building Consent for the partial demolition, partial re-build, erection of extensions and alterations to mill to form 63 apartments and erection of 64 dwellings – Undetermined

2005/90818 Partial demolition, conversion of redundant mill building and new build to form 108 apartments with ancillary facilities – Approved

2001/91066 Conversion of redundant mill buildings and new build to form 50 apartments and dwellings with viewing area and parking – Approved

89/06149 Change of Use from industrial mills to hotel and restaurant – Approved

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

5.1 The scheme has been the subject of formal pre-application advice. Advice was provided in 2018 on a proposed development for the part demolition and part conversion of the existing mill to form 64 apartments and the erection of approximately 66 dwellings (reference 2018/20130). This proposal was presented to the Strategic Planning Committee on 5th July 2018 and Members also carried out a site visit. The officer report summarises the main constraints and restrictive planning policies that would affect the scheme, particularly Green Belt and heritage considerations as well as flood risk issues. Technical advice was also provided on highway and ecology matters.

5.2 The layout as proposed under the current planning application is broadly very similar to the pre-application scheme and the submission has sought to respond to the advice that was provided at pre-application stage.

5.3 The proposed layout of the site has been amended during the course of the application to mitigate the risk of flooding to the development. The terraced blocks to the west of the mill have been pushed further to the west in order to remove development from a part of the site that was at the greatest risk of the most severe flooding. As part of this amendment the two blocks of terraced houses that were originally proposed have been split into three blocks. The level of the internal access road has also been raised in this location to mitigate the potential impact of flooding.

5.4 Layout amendments and additional information have been provided to address highway matters. Additional information has also been provided to support the ecological assessment and negotiations undertaken with respect to on-site open space and the Section 106 offer.

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 27th February 2019).

6.2 Kirklees Local Plan (2019):

LP1– Presumption in favour of sustainable development
LP2 – Place shaping
LP3 – Location of new development
LP4 – Providing infrastructure
LP5 – Masterplanning sites
LP7 – Efficient and effective use of land and buildings
LP11 – Housing mix and affordable housing
LP20 – Sustainable travel
LP21– Highway safety and access
LP22 - Parking
LP24 – Design
LP27 – Flood risk
LP28 – Drainage
LP29 – Management of water bodies
LP30 – Biodiversity and geodiversity
LP32 – Landscape
LP33 – Trees
LP34 – Conserving and enhancing the water environment
LP35 – Historic environment
LP47 – Healthy, active and safe lifestyles
LP49 – Educational and health care needs
LP51 – Protection and improvement of local air quality
LP53 – Contaminated and unstable land
LP59 – Brownfield sites in the Green Belt
LP63 – New open space

6.3 Supplementary Planning Guidance / Documents:

Highway Design Guide SPD

6.4 National Planning Guidance:

Chapter 2 - Achieving sustainable development
Chapter 4 – Decision-making
Chapter 5 – Delivering a sufficient supply of homes
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 13 – Protecting Green Belt land
Chapter 14 – Meeting the Challenge of Climate Change, Flooding and Coastal Change
Chapter 15 – Conserving and enhancing the natural environment
Chapter 16 – Conserving and enhancing the historic environment

6.5 Other material considerations:

[Kirklees Interim Affordable Housing Policy \(2020\)](#)

[National Design Guide](#)

[Planning Practice Guidance](#)

West Yorkshire Air Quality and Emissions Technical Planning Guidance

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been advertised by site notices, press advert and neighbour notification letters. In response to the publicity nine representations have been received. It should be noted that a number of the representations express broad support for the restoration and redevelopment of the site although this is qualified by issues/concerns with some of the proposed details and technical matters. A summary of the comments received is provided below.

General principle

- The quantum of new development stretches the enabling argument to its limit.

Design

- Concerns raised with the quality of design of the new build elements
- Dominance of vehicular parking detracts from the overall scheme, particularly the parking around the central green and the garage doors to the properties.
- The external amenities around the water areas are too heavily influenced by roads and parking.
- New dwellings are too close to the canal and will have a detrimental impact on the visual amenity of the canal.

Heritage

- Development will negatively affect the Conservation Area
- The archaeology of the site needs to be investigated
- The supporting heritage information submitted by the applicant is insufficient

Highway issues

- Concerns with the impact of the additional traffic that would be generated on the local highway network. Existing traffic problems within the vicinity of the site would be exacerbated. The local road network is not suitable to accommodate heavy traffic.
- Concerns that insufficient traffic modelling has been undertaken by the applicant
- Concerns that the development will add to existing parking problems in the locality. Already parking issues associated with Titanic Mil and people accessing the canal.

Flood risk

- Residential development inappropriate on a flood plain.
- Concerns with the impact on the hydrological flow characteristics within the river Colne flood plain.
- Concerns with the impact of nearby chemical factories being flooded on the proposed and existing residential development.
- Has the flood risk assessment taken into account climate change?

Ecology

- Detrimental impact on the site's wildlife value.
- Ecological enhancement is concentrated towards the undeveloped part of the site; the developed part of the site offers little in the way of ecological benefit.

Other matters

- Impact on local infrastructure such as schools and medical facilities. Local infrastructure is already overstretched.
- Impact on trees.
- There is not a need for additional dwellings in this location.
- The canal towpath is an important green corridor that needs protecting.
- Potential contamination needs to be adequately addressed.
- Will any parking spaces be made available for visitors to the canal?
- Will a room within the mill building be used to show the industrial history of the site and local area?
- The history of the mills should be presented within interpretation boards to allow people to appreciate the textile heritage of the area.
- A dedicated right of way through the site from Low Westwood Lane to the canal towpath is welcomed and should be designed to minimise potential conflict with vehicles.

7.2 Since the aforementioned publicity was undertaken there have been some amendments to the scheme, particularly the repositioning of the blocks of terraced houses to the west of the mill. The changes do not prejudice any adjacent landowner and as such the amended plans have not been subject to any formal publicity period.

7.3 Councillor Rob Walker – *“Though I am broadly supportive of the scheme I do think that it should come to planning committee due to the heritage features of the site and its environmental importance. There is also obviously the flood plain issue.”*

7.4 Councillor Donna Bellamy – [Ward Councillors] *“have also been contacted by the developer, I will look at the plans etc as they come through, however as a member of strategic committee I will leave comments for when it comes there.”*

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

KC Highways Development Management – No objection subject to the minor amendments and clarification as detailed within the appraisal.

Kirklees Lead Local Flood Authority – Advice provided to the LPA on flood risk matters. LPA should confirm with the Environment Agency that the layout amendment affecting blocks i1 to i3 does not materially affect compensatory flood storage within the site. Detailed drainage design required by condition along with a flood evacuation plan.

The Environment Agency – No objection provided that the council also accepts the applicant's revised modelling of the functional floodplain boundary within the site.

Historic England – No objection; the principle of development is supported.

8.2 Non-statutory:

KC Conservation and Design – Support the application.

KC Environmental Services – No objection subject to conditions.

KC Ecology Unit – No objection provided that a biodiversity net gain is achieved.

KC Trees Officer – No objection; details of new/compensatory tree planting required as part of final landscaping scheme.

KC Landscape Section – No objection; details of hard and soft landscaping scheme required by condition.

Public Rights of Way – No objection received.

KC Waste Strategy – Advice provided on waste storage and collection requirements. Updated comments have been sought in response to the amended layout.

KC Education – Contribution of £266,876 is required towards primary school provision.

KC Strategic Housing – 20% of the proposed dwellings should be affordable; this equate to 25 dwellings although the application will also need to be assessed against the criteria for Vacant Building Credit.

Police Architectural Liaison Officer – No objection.

Canal and River Trust – No objection subject to condition.

Yorkshire Water – No objection.

Yorkshire Wildlife Trust – Comments reflect those of Kirklees Ecology Unit.

9.0 MAIN ISSUES

- Principle of development
- Heritage considerations
- Green Belt issues
- Phasing of development
- Urban design issues
- Residential amenity
- Landscape issues
- Housing issues
- Highway issues
- Flood risk and drainage issues
- Planning obligations and financial viability
- Ecology and trees
- Representations
- Other matters
- Climate change

10.0 APPRAISAL

Principle of development

- 10.1 The collection of Grade II* heritage assets at Westwood Mill are on the Historic England at risk register and are at immediate risk of further rapid deterioration and loss of fabric. The Grade II* listing indicates that the assets are particularly important and are of more than special interest; such buildings account for just 5.8% of listings nationally.
- 10.2 Part of the significance of these assets is derived from:
- a) The early date of the first phases of the mill;
 - b) The way in which the chronological development of the site is legible in the stylistic and construction differences between the different blocks;
 - c) The survival of fabric that illustrates the different functions and development of power sources over the years, e.g. the turbine, engine house, boiler house, drying room etc;
 - d) The survival of associated infrastructure including the mill pond/ dam, sluice gate and mill race;
 - e) The location of the complex which illustrates the importance of water power to the early operation of the mill; and
 - f) The green valley setting which allows an appreciation of the mill complex in its rural location (in contrast to larger urban mills of West Yorkshire towns).
- 10.3 The site also lies in the Linthwaite Conservation Area. The Linthwaite Conservation Area Appraisal highlights the importance of Westwood Mill, with the buildings identified as being of high quality architecturally and important to the development on Linthwaite. The document also identifies Westwood Mill as a collection of buildings at risk and states that buildings such as this one requires action to be taken to ensure that the character of the Conservation Area is preserved and enhanced.
- 10.4 The applicant has submitted the application on the basis of an 'enabling development' argument. The NPPF states: "Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the dis-benefits of departing from those policies."

- 10.5 Much of the site lies within the Green Belt. The proposed development involves the erection of 64 dwellings, the vast majority of which fall within Green Belt land. This would represent inappropriate development unless very special circumstances exist to outweigh the harm to the Green Belt by reason of inappropriateness and any other harm. The very special circumstances the applicant has put forward are the enabling works to bring the listed buildings back into viable use.
- 10.6 A detailed assessment of the heritage and Green Belt issues are provided in the following sections of this appraisal.
- 10.7 It is also relevant to note that planning permission for the redevelopment of the mill site to residential use has previously been approved. This includes under a 2005 application for the conversion of the mill and the erection of new development to provide 108 apartments. The council has previously accepted that this permission was lawfully implemented and is therefore extant.

Heritage issues

- 10.8 When determining planning applications that impact on designated heritage assets local planning authorities have a statutory duty under sections 16(2), 66(1) and 72(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.
- 10.9 Paragraph 192 of the NPPF states: "In determining applications, local planning authorities should take account of:
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - c) the desirability of new development making a positive contribution to local character and distinctiveness."
- 10.10 Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be).
- 10.11 Paragraph 195 of the NPPF states that: "Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:
- a) the nature of the heritage asset prevents all reasonable uses of the site; and
 - b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
 - c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
 - d) the harm or loss is outweighed by the benefit of bringing the site back into use.

- 10.12 Part 1 of Policy LP35 of the Kirklees Local Plan states that development proposals affecting a designated heritage asset should preserve or enhance the significance of the asset and it mirrors paragraph 195 of the NPPF in terms of the assessment for proposals that would result in substantial harm or loss of a designated heritage asset.
- 10.13 The policy justification for LP35 identifies that “much of the distinctiveness of Kirklees’ historic environment is steeped in the development of the textile industry.” Historic England have commented that Westwood Mills is not just one of the most significant textile sites in Kirklees, it is one of the most significant textile sites in the country. The Grade II* listed status of the complex means that it is the top 8.3% of all listed buildings in England.
- 10.14 Part 3 of Policy LP35 states that proposals should retain those elements of the historic environment which contribute to the distinct identity of the Kirklees area and ensure they are appropriately conserved, to the extent warranted by their significance, also having regard to the wider benefits of development. Consideration should be given to, *inter alia*, the need to secure a sustainable future for heritage assets at risk and those associated with the local textile industry.
- 10.15 The works necessary to convert the mill involve a substantial amount of demolition and rebuilding work although where possible the more significant parts of the mill are to be retained.
- 10.16 The existing mill building is to be restored and converted into 38 apartments (Blocks A-D). New floors are to be installed in the same locations as the original floors along with new roof structures to replicate the original roof. Additional space would be created within the open truss roof areas for mezzanine/gallery accommodation. The external envelope would remain as per the original building with windows retained in their original positions. The subdivision of the mill buildings would cause some harm to their significance, although this principle has already been established in previous applications and has been mitigated through the layout of the apartments and the retention of significant historic features within communal areas.
- 10.17 The scheme also includes a new build element adjoining the southern side of the mill building which will provide 25 apartments (Blocks E-G). It is proposed to use some surviving walls and construct new walls to form block E, which is largely on the footprint of an existing mill building. Blocks F and G would be new buildings, with block G forming a large five storey building with additional accommodation in the roof. These new structures have been designed to be in keeping with the historic mill.
- 10.18 The walls to the mill pond adjacent to the mill require restoration works as part of the mill conversion, which will then secure the rear terraces of Blocks B-F. The mill pond, which is currently covered with trees, will be reinstated as a water feature with some modifications along its southern flank.
- 10.19 The scheme also includes the erection of six blocks of new build dwellings which would be located towards the east and west of the mill. These new dwellings plus the associated external works such as the access road, parking and landscaping will significantly alter the setting of the mill. This aspect of the development has however been designed to mitigate the impact on the setting

of the heritage assets in terms of their location, scale, architectural form, and materials. It is considered that the contemporary interpretation of the terraced form will sit well alongside the industrial character of the mill buildings.

- 10.20 Having regard to all aspects of the scheme, the proposal is considered to amount to substantial harm to the designated heritage assets as described by the NPPF. However, the conversion of the mill from its current condition and the restoration of the original mill pond are considered to represent a substantial public benefit – bearing in mind its Grade II* listed status and the fact that it has been identified as being at risk of being lost. The restoration of the mill will also deliver supplementary public benefits by improving the setting of Titanic Mill (Grade II listed) which lies opposite the site as well as enhancing the character of the Linthwaite Conservation Area and the adjacent canal. The substantial public benefit that has been identified is considered to be sufficient to meet the requirements of paragraphs 192, 193 and 195 of the NPPF and Policy LP35 of the Local Plan.
- 10.21 As the developer is promoting this as an ‘enabling development’ project the key public benefits must focus on the retention and reuse of the mill buildings and the creation of a high quality, attractive residential environment, while avoiding unavoidable harm to heritage assets. The approach to bringing the volume and fabric of the mill back into a new use as outlined in the application is supported. However, it is considered that a more detailed scheme demonstrating how the building conservation works will be implemented is necessary. This is to ensure that the applicant’s proposed “design concept” is successfully realised by the delivery of the authentic repair of surviving details/components and their convincing replacement where required.
- 10.22 Conditions are therefore recommended requiring the further approval of the scope of repair and reinstatement works for all building components including: roof structures, elevations, floors and the use of replacement materials. Such information would also provide a clear baseline to enable the implementation to be monitored and evaluated.
- 10.23 The layout of the site has been amended to address flood risk issues. The new development to the west of the mill has moved further away from the listed building and as part of this change the applicant has decided to split two blocks of terraced dwellings into three smaller blocks. As a consequence of this, an area immediately adjacent to the mill (as extended) would form a parcel of soft landscaping, bin store and row of parking spaces. The amendment increases the openness around the mill and restored mill pond, which would enhance their prominence when viewed from the west. As such the change also has a fortuitous benefit on heritage grounds.
- 10.24 Historic England have emphasised the importance of ensuring that the soft landscaping of the site takes account of the industrial character of the site and responds sympathetically to the heritage assets as well as mitigating the impact of the new development where possible. The detailed landscaping scheme for the site would be agreed through a planning condition and will need to reflect this advice.
- 10.25 In order to provide adequate parking provision in suitable proximity to the dwellings, the amount of parking spaces has been increased around the ‘green’ to the east of the mill. It is acknowledged that this results in this area becoming more ‘cluttered’ and detracts from the overall design. However, on

balance it is considered that appropriate parking needs to be provided so as to discourage informal parking occurring in other areas, which would give rise to other issues as well as impacting on the visual amenity of the development.

- 10.26 The principle of development is supported by both the Council's Conservation and Design team and Historic England and in summary officers consider that securing the future conservation of this important listed building outweighs the harm and the loss of significance to the heritage asset. The application is deemed to be in accordance with Policy LP35 of the Kirklees Local Plan and guidance in the NPPF.

Green Belt issues

- 10.27 The majority of the site lies within the Green Belt, as identified within the Kirklees Local Plan. The existing mill buildings and their immediate curtilage, which extends a short distance to the east and as far as the river to the south, are not included within the Green Belt and comprise unallocated land.
- 10.28 In order to fund the cost of the mill conversion and enable the development to create a profitable outcome for the developer, the proposal includes the erection of 64 dwellings to the east and west of the mill. The vast majority of these new build dwellings lie within the Green Belt; it is only a proportion of block H which falls within the unallocated part of the site. The proposed extension to the mill is also within the unallocated land.
- 10.29 Paragraph 143 of the NPPF states that "inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances". Paragraph 144 goes on to state that Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt and "very special circumstances" will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 10.30 The NPPF sets out a number of exceptions within paragraph 145 whereby the construction of buildings within the Green Belt could be acceptable. The exceptions include limited infilling or the partial or complete redevelopment of previously developed sites, whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt over and above the existing development.
- 10.31 Policy LP59 of the Kirklees Local Plan states that the redevelopment of brownfield sites will normally be acceptable where the existing footprint is not exceeded, and any new building does not materially exceed the height of the existing built development or result in any detrimental cumulative impact on the openness of the Green Belt.
- 10.32 While the existing mill buildings and their immediate curtilage constitute previously developed (brownfield) land, this part of the application site has overtly been excluded from the Green Belt boundary. Very little of the Green Belt land within the application site can be considered as brownfield and all previous development within this part of the site is/has been low level. For example, the Green Belt land includes the settling pond, a section of the existing access off Low Westwood Lane and the mill pond – which has reverted to an area of self-seeded vegetation. Aerial photographs and historic maps indicate that there has been some additional limited development within

the Green Belt to the east of the mill where there is evidence of some small structures and hard surfacing. Nevertheless, the part of the site that is within the Green Belt is essentially undeveloped land. As such, the proposed new build development, apart from roughly the western half of block H and the extension to the mill, is inappropriate development.

- 10.33 The proposal represents a significant amount of new development within the Green Belt. The residential development extends for a sizable distance to both the east and west of the mill, resulting in a high degree of encroachment. The built form of the new buildings is also substantial, with six blocks of terraced houses that are all three and four storeys in height. In addition to this the proposal would introduce the associated residential infrastructure such as estate roads, parking spaces and communal bin storage. The proposal would therefore have a very considerable impact on the openness of the Green Belt and would conflict with the fundamental aim of Green Belt policy, which is to prevent urban sprawl by keeping land permanently open.
- 10.34 A financial viability assessment has been submitted with the application and this has been independently appraised on behalf of the Council. The viability assessment concludes that without the 64 new build homes the mill conversion and extension would make a loss of some £5.5million. It is clear from the viability assessment that even with the new build dwellings the overall viability of the scheme is marginal, and officers therefore accept that the proposed quantum of development is the minimum that is necessary to enable the listed building to be restored.
- 10.35 In this context it is necessary to consider whether the benefits of the proposed development, specifically the public benefit that would arise from the restoration of the Grade II* listed mill, amounts to 'very special circumstances' to outweigh the harm to the Green Belt by reason of inappropriateness and any other harm.
- 10.36 The heritage benefit of restoring the mill and regenerating this historic industrial site has been discussed earlier within this appraisal. Considerable weight is attached to this benefit and officers are of the opinion that this is sufficient to constitute very special circumstances that would outweigh the harm caused.
- 10.37 The layout of the site has been amended during the course of the application to address flood risk issues (as discussed later in this appraisal). The effect of this change has been to push development slightly further towards the west. As such the extent of the incursion of new built form into the Green Belt has been increased. This additional impact on the openness of the Green Belt must be weighed against the benefit of mitigating the risk of flooding to the development. Officers have concluded that, within the context of the overall scheme, the benefit of mitigating flood risk outweighs the impact of the relatively modest additional encroachment.

Phasing of the development:

- 10.38 The enabling argument put forward by the applicant is accepted by officers as justification for the new development within the Green Belt. Given the weight of emphasis that has been placed on the protection of the designated heritage asset it is therefore vital that the listed mill building is restored at the earliest possible opportunity.

- 10.39 The applicant has advised that the works to the existing mill would form part of the first phase of development. Initially the mill would be scaffolded and made safe and within one year of work commencing the building would be fully weathertight. Work will also begin on the restoration of the mill pond at the same time. All these works would be taking place alongside the infrastructure works to form the new access road and install services.
- 10.40 Within this first phase, it is also proposed that the dwellings to the west of the mill would be constructed (blocks i1, i2 and i3). The applicant expects that these houses would be on the market within one year and has indicated that the sale of these properties is necessary to continue to fund the restoration of the mill, which would take a further 12 months (approximately) before the conversion has reached a stage where the apartments can be marketed.
- 10.41 The second phase of the development would begin with block K, followed by blocks H and J.
- 10.42 Given the condition of the listed mill, the scope of the restoration works is significant and as such will be a costly and time-consuming aspect of the development. It is therefore considered reasonable to enable the developer to construct and sell a proportion of the new build dwellings as part of the first phase. The developer is proposing to construct the three blocks of dwellings to the west of the mill as part of phase one, which are effectively located to the 'back end' of the site and can be constructed without impacting on the works to the mill. These dwellings also back directly onto the mill pond which is to be restored as part of the first phase. Officers consider that this is an acceptable proposition although it is considered that none of the dwellings within phase 2 should be constructed beyond floor slab level until the mill building has reached its 'first fix'.
- 10.43 Based on the above it is considered that the following triggers for development are appropriate for the protection of the heritage asset and the Green Belt.
- Measures to ensure that the listed mill building is secured and made weather and water-tight to be completed within 12 months of development commencing. This would be evidenced by the developer through a schedule of works and agreed in writing by the Local Planning Authority.
 - No construction beyond floor slab level of any dwelling forming part of blocks K, H or J until the listed mill building has been satisfactorily completed to 'first fix' stage. The developer would be required to submit evidence of the completed works to the Local Planning Authority.
 - Mill pond to be restored before any dwelling within blocks K, H or J is occupied.
- 10.44 It is considered necessary that the phasing of the development is secured via Section 106 agreement.

Urban Design issues

- 10.45 The proposed terraced houses are predominantly four storeys in height, although a number of these are split level (three and four storeys). Only block H is entirely three storeys. There is a consistent design theme to the

dwellings with pitched roofs, gables and projecting elements to the front and rear that enable terraces to be provided at the uppermost level (except for block H). All the dwellings have been provided with integral garages which is intended to help reduce the visibility of parking.

- 10.46 Parts of blocks J and K would face directly onto Low Westwood Lane. These dwellings are four storeys in height and have entrances and main habitable windows fronting onto the road which provides an active interface with the streetscene. These properties also have amenity space to the roadside elevation and their parking spaces are located to the opposite side of the house which means there would be a softer, more attractive edge to the public highway.
- 10.47 The layout includes a number of positive elements that help to deliver a high quality of development. In particular, the restoration of the original mill pond would provide a very attractive aquatic feature that enhances the setting of the existing and proposed buildings as well as the adjacent canal. The scheme also retains the existing settling pond adjacent to Low Westwood Lane.
- 10.48 In addition to this, the layout incorporates areas of open space – including a landscape buffer to the river Colne and a central ‘green’ to the east of the listed building which provides a pleasant, open area in this part of the site. Existing and new tree planting is incorporated throughout the layout.
- 10.49 The existing mill sits directly adjacent to the canal towpath and so the restoration of the building will enhance the canal’s aspect. Furthermore, the proposed extension to the listed building is considered to be a sympathetic addition and of a scale and design that is in keeping with this historic site as well as the wider area.
- 10.50 All of the restoration works to the listed mill would be carried out using natural stone and slate to match the original building. Where the mill is to be extended the first part of the extension (block E) would also be constructed of natural stone. The remainder of the extension (blocks F and G) would be faced in artificial stone to match the listed building. The extension would have a natural slate roof.
- 10.51 The new build dwellings to the east of the mill (blocks H, J and K) would be faced in artificial stone and stone coloured render. The new build dwellings to the west of the mill (blocks i.1, i.2 and i.3) would be faced in brick - in a colour to match natural stone - with natural stone gable ends. The roofs would be natural slate.
- 10.52 No objections have been raised to the proposed materials by the Council’s Conservation and Design team and Historic England. Officers consider the materials to be acceptable, subject to a condition requiring the approval of samples.
- 10.53 A condition requiring a detailed scheme for the proposed hard and soft landscaping of the site is also recommended. This will need to include sensitive treatment of the boundaries to Low Westwood Lane and the canal.

10.54 In summary, the development is considered to represent good quality design and therefore complies with Policies LP24 and LP35 of the Kirklees Local Plan and guidance in the NPPF.

Residential Amenity

10.55 The site is immediately surrounded by waterways (canal and river), a road and undeveloped land. The proposed new dwellings are well separated from the nearest existing residential properties and as such the proposal would not prejudice the amenity of any existing occupiers.

10.56 The form and layout of the proposed new dwellings are such that the new dwellings are generally very well separated from one another. There is a relatively close relationship between the side of blocks E-G and the western end of block H although it is not considered that this results in any unacceptable impact on the amenity of future occupiers.

10.57 The size of the proposed residential units is a material planning consideration. Local Plan policy LP24 states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, and the provision of residential units of an adequate size can help to meet this objective. The provision of adequate living space is also relevant to some of the council's other key objectives, including improved health and wellbeing, addressing inequality, and the creation of sustainable communities. Recent epidemic-related lockdowns and increased working from home have further demonstrated the need for adequate space at home.

10.58 Although the Government's Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's draft Housebuilder Design Guide SPD. NDSS is the Government's clearest statement on what constitutes adequately-sized units, and its use as a standard is becoming more widespread – for example, as of April 2021, all permitted development residential conversions will be required to be NDSS-compliant.

10.59 The applicant has provided a breakdown of the floor areas and compared these with the NDSS.

10.60 The 64 new build dwellings all exceed the NDSS, and generally exceed the standards by a large degree.

10.61 The applicant's assessment shows that 47 out of the 63 apartments all exceed the NDSS to varying extents. However, officers note that a further 9 apartments also comply with the NDSS when they are compared against the lowest occupancy level for the relevant dwelling types (the applicant's assessment generally adopts the higher level of occupiers which consequently means that the minimum space requirement is higher).

10.62 Of the remaining 7 apartments where the applicant has identified a shortfall against the NDSS, three of them fall short on the amount of built-in storage space only and in these instances the overall floor area exceeds the NDSS, which provides more than adequate compensation.

- 10.63 All of this means that there are only 4 out of the 127 units that demonstrably fall short of the minimum requirements within the NDSS; this equates to just over 3% of the total. These units are all within the mill conversion (blocks A-G) where there are challenges with delivering a layout that ensures the sensitive conversion of the historic elements. Taking this into account, along with the widespread adherence to the NDSS across the scheme as a whole, it is considered that the development would deliver an acceptably high standard of living space for future occupiers.
- 10.64 The amount of external amenity space for each of the 64 new build dwellings is generally quite limited however all but one of the new build dwellings incorporate balconies and terraces which provide usable outdoor space. The development also includes numerous areas of open space which will help to meet the needs of residents, including the occupiers of the apartments.
- 10.65 Some of the proposed residential properties would be located close to existing commercial uses to the south of the site. There is also a railway line around 130m to the north of the site. Noise from both of these sources have the potential to have an adverse impact on the future occupiers of the site. A condition requiring an assessment of the potential impact from noise together with details of any necessary noise mitigation measures is considered necessary.

Landscape issues

- 10.66 The site takes in part of the boundary between the village of Linthwaite and the Green Belt. The impact on the Green Belt has already been considered within this appraisal and in this regard the principle of the development has been accepted by officers. The proposal would nevertheless extend the built-up part of Linthwaite on the northern side of the River Colne. The site is however located broadly in line with the Titanic Mill development, which is also on the northern side of the river but forms part of Linthwaite village (not Green Belt). The two developments would generally be viewed within the same context and as such the scale of the intrusion into the landscape beyond the river would appear somewhat less pronounced. The canal then serves to provide a visual break between the new built form and the Green Belt land further to the north.
- 10.67 The site includes areas of open land including a landscape buffer alongside the river and a large area of open space in the western part of the site which help to create an attractive landscape setting. The restoration of the mill pond and the improvements to the settling pond also help in this regard and retain some of the historic features and character of the area.
- 10.68 Overall it is considered that the proposed scheme would successfully assimilate itself into the landscape. The application therefore complies with Policies LP24 and LP32 of the Kirklees Local Plan.

Housing issues

- 10.69 The proposal would result in a 'windfall' of 127 new residential units which would contribute towards the Council's housing delivery targets as set out in the Local Plan.

Highway issues

- 10.70 In general terms the application is considered acceptable from a highway safety perspective, although there are some specific matters in relation to the detailed design of the site layout which the applicant needs to address. This is largely necessary to ensure that the road layout would meet adoptable standards.
- 10.71 In terms of capacity of the existing highway, Highways Development Management are satisfied that the traffic generated by the development can be accommodated on the local road network without giving rise to any unacceptable impacts. Information submitted in support of the application shows that all junctions would continue to work within capacity using 2024 base traffic figures and the robust figure of 0.7 peak hourly movements per dwelling. The TRICs data produces less onerous figures still.
- 10.72 Some of the public representations received have referred to queueing vehicles at the signalised junction of Low Westwood Lane and Manchester Road. Although this junction is anticipated to work within its capacity following the completion of the development, this proposal is naturally going to put additional traffic on this section of the network given, especially because it will be the principal route of access for the development. As such, the Council's Urban Traffic Control department have requested a contribution of £15,000 to upgrade the signals to the MOVA system, which will improve the junction efficiency. This contribution is to be secured as part of the Section 106 Agreement.
- 10.73 A new vehicular access is to be formed roughly along the middle of the site frontage; this is off-set from the entrance to Titanic Mills.
- 10.74 An existing access off Low Westwood Lane, which abuts the southern side of the settling pond, is to be retained. This would act as a pedestrian only access up until the point where it meets the main access road within the site. This existing access would be enclosed by bollards, which could be removed in the event that emergency access was required.
- 10.75 The site layout has been amended to include a new pedestrian footway along the site frontage which will facilitate pedestrian access to and from the site. The applicant has however been asked to confirm their intentions regarding the widening of the existing footway around the settling pond, as it may only be possible to do so by extending into the existing carriageway.
- 10.76 It is considered that the street lighting along the site frontage should be augmented and to this end a financial contribution towards an additional street lamp is sought (£2,000).
- 10.77 Within the site, the road layout would be a mixture of standard road surface with footways and a 'shared surface' with a delineated hard margin to one or both sides. The initial section of highway from the site entrance includes 2m wide pedestrian footways; Highways Development Management have requested that the footway to the northern side of the access road is increased in length so that it extends for a short distance beyond the mill. The shared surface is within the western part of the site and around the 'green' to the east of the mill. Subject to the aforementioned amendment, the proposals are considered to be acceptable in this regard.

- 10.78 The overall level of parking provision is deemed to be acceptable. It is however considered that the garages within the redesigned terraces to the west of the mill (blocks i1, i2 and i3) are too shallow to comfortably accommodate two large family cars. As the proposed dwellings are to be three-bedroomed, two off-street parking spaces are required. These are formed by one garage space and one driveway space; however, an increase in garage depth of around 700mm would create an extra space, thus reducing demand on visitor parking in this section of the site. The applicant has been asked to review whether such an amendment can be accommodated.
- 10.79 In terms of the detailed design of the proposed layout, the applicant has also been asked to review the width of the internal access road, sightlines and swept paths to address specific comments from the council's Section 38 team (road adoption). The applicant has also been asked to comment on the existing underground structures (mill race watercourses) over which adoptable roads are proposed. An update will be provided to members once the applicant has responded.
- 10.12 An updated response from the council's Waste Strategy Officer has been sought in relation to the waste storage and collection arrangements because the layout of the site has been amended. An update will also be provided on this matter.
- 10.80 Conditions relating to detailed highway design, including the proposed footway to the site frontage and highway retaining structures, are considered necessary.

Flood Risk and drainage issues

Flood risk

- 10.81 The current Environment Agency Flood Risk Map shows the majority of the site to be within Flood Zone 3 with a proportion of the site adjacent to the canal falling within Flood Zone 2. This means that the site is at high and medium risk of flooding respectively.
- 10.82 Areas within the site are also designated as functional floodplain (Flood Zone 3b) within the Kirklees Calder Catchment Strategic Flood Risk Assessment (Kirklees SFRA). The functional floodplain is defined as a 1 in 25 year event.
- 10.83 The application is for the erection of dwellings which is classified as a 'more vulnerable' land use. In line with the National Planning Policy Framework (NPPF) and associated Planning Practice Guidance (PPG), 'more vulnerable' developments (as defined in the Flood Risk and Coastal Change section of the PPG) are not appropriate in flood zone 3b.
- 10.84 The applicant has undertaken their own site-specific modelling of flood risk. The modelling has been based on land levels being altered within the functional floodplain and these works form part of the proposed scheme. The applicant's modelling has been reviewed by the Environment Agency who consider that it demonstrates a better representation of Flood Zones 2 and 3 and is comparable with the most up-to-date modelling that the Environment Agency undertook in 2020. The Environment Agency also consider that the applicant's modelling of the functional floodplain (Flood Zone 3b) constitutes a more accurate representation of this boundary as it is derived by better modelling than that used for the Kirklees SFRA.

- 10.85 The modelling carried out by the applicant demonstrates that none of the proposed dwellings and the access road would be located within the functional flood plain (Flood Zone 3b). The Environment Agency raise no objection to the principle of development provided that the council also accepts the new boundary of Flood Zone 3b as shown on the applicant's model.
- 10.86 Part (d) of policy LP27 of the Local Plan (Flood risk) states that "development will not be permitted on any part of the site identified through a site-specific Flood Risk Assessment as performing a functional floodplain role". The scheme involves works to alter land levels within the existing functional floodplain, as identified within the Kirklees SFRA. The proposed change to the boundary of the functional floodplain is only acceptable on the basis of these works being carried out. The works to alter land levels, which include lowering the river bank and creating compensatory flood storage, constitute development because they are an engineering operation. As such, this aspect of the scheme conflicts directly with part (d) of Policy LP27.
- 10.87 National Planning Practice Guidance sets out the appropriate types of uses (by Vulnerability Classification) in each Flood Zone following the application of a Sequential Test. For Flood Zone 3b it states that Water Compatible uses may be appropriate and essential infrastructure may be appropriate (but only following an Exception Test). NPPG does not list land raising/engineering works as an appropriate use under either of those vulnerability classes. The Environment Agency have however suggested that, where 'engineering operations' are creating compensatory flood storage, such works could be considered as appropriate development in functional floodplain on the basis that they are facilitating works to create "flood control infrastructure", which is appropriate for construction in Flood Zone 3b. The Environment Agency has already granted a Flood Risk Activity Permit for these works.
- 10.88 Officers have considered the issue of development within the existing functional floodplain and are of the opinion that the works can be accepted on this particular site. The works are providing compensatory flood storage and are necessary to help facilitate the enabling works that are necessary to deliver the restoration of an 'at risk' Grade II* listed building. Similar works are therefore unlikely to be acceptable on other sites within the district.
- 10.89 Policy LP27 of the Local Plan requires a sequential approach to new development. This means that development should first be directed to areas at the lowest probability of flooding, following a sequential risk-based approach.
- 10.90 Notwithstanding the applicant's revised modelling, large areas of the site remain in flood zones 2 and 3a and as such the application is required to be subject to a sequential test, with the starting point for the search area being the whole of the district. The existing mill building is exempt from the sequential test because it is a change of use but the sequential test applies to the remainder of the development.
- 10.91 In this instance officers have accepted that it is appropriate to adopt a site specific sequential approach, i.e. alternative sites that are at lower risk of flooding need not be considered. This is on the basis of the regeneration benefits, namely the need for enabling development to support the conversion of the mill, which is considered to outweigh the risk of flooding.

- 10.92 Having accepted the principle of development in this location, it is then necessary to apply a sequential approach to new development on the site. To this end, an amendment to the layout has been secured which has removed some of the new dwellings from an area of the site which is at the greatest risk of flooding in the most severe events. The terraced blocks to the west of the mill have been pushed further away from the mill in order to avoid this area and have been replaced with an area of soft landscaping plus parking spaces and a bin store.
- 10.93 The applicant has provided a Flood Risk Assessment which shows the proposed layout in relation to a series of different flooding scenarios and includes the various depths of the anticipated flooding that would occur. From the information provided it is clear that there is a significant degree of flood risk posed to some of the new development. The risk of flooding is most acute in the 1 in 100 year events when 50% and 30% allowances are made for climate change.
- 10.94 The 1 in 100 event with a 30% allowance for climate is generally accepted as a standard scenario. This shows that flooding would affect blocks i1, i2 and i3 as well as the gardens of some of the properties within block H and a small area adjacent to block G. The depth of the modelled flooding scenario is shown as being relatively low level (less than 200mm) although some localised areas would be above this. It also shows that part of the access road is shown to flood to a depth of up to 600mm; at this depth it would certainly impede emergency vehicle access, if not prevent it.
- 10.95 It has already been established that the amount of new development proposed is the minimum that is necessary in order to bring the scheme forward. As such, there is not any scope to entirely remove development from the identified flood risk areas. Officers have therefore accepted that a sequential approach to the site layout cannot be improved any further. It is therefore necessary to consider whether suitable flood mitigation measures can be provided to make the development acceptable.
- 10.96 The scheme incorporates a number of flood mitigation measures. These include minimum finished floor levels within the new dwellings, no habitable accommodation at ground floor level within the blocks to the west of the mill (i1, i2 and i3), a dry access route from blocks i1, i2 and i3 in the event of a flood (raised walkway alongside the mill pond connecting to the canal towpath), as well as compensatory on-site flood storage. It is considered that the proposed measures are a suitable response to flood risk and will help to mitigate the impact of flooding if/when it occurs.
- 10.97 The risk of flooding to a number of the properties must be weighed within the planning balance and this appraisal sets out a number of benefits that would arise as a result of the proposed development. Officers have concluded that the degree of risk posed by flooding, taking account of the proposed flood mitigation measures, is acceptable when weighed alongside all other material planning considerations. The risk posed by flooding is also a matter which any prospective purchasers of the affected properties will also need to carefully consider on an individual basis.

- 10.98 Conditions are recommended to ensure that the proposed flood mitigation measures are provided as part of the development. A condition regarding a flood evacuation plan is also recommended.
- 10.99 The applicant has recently updated their Flood Risk Assessment following the aforementioned amendment to the site layout. It is unclear whether this change would materially affect compensatory flood storage and as such it is considered prudent to obtain confirmation from the Environment Agency that the revised layout does not alter their original comments. The officer recommendation reflects this.

Drainage matters

- 10.100 The applicant has provided a broad drainage strategy for the development. Surface water would ultimately discharge to the River Colne via a series of swales, the restored mill pond and existing settling pond. The strategy represents a sustainable approach to surface water disposal and therefore is considered to be acceptable in principle. A detailed drainage scheme is however required and this can be conditioned. A separate foul drainage system is proposed and this will connect to the existing sewer network.
- 10.101 There is a public sewer crossing the south western section of the site and Yorkshire Water have advised that certain minimum stand-off distances are required between new buildings and the sewer infrastructure within the site. A minor amendment was made to the layout to address these requirements and Yorkshire Water subsequently advised that the scheme provided acceptable stand-off distances. Since these comments were made by Yorkshire Water, the layout of the new terraced dwellings to the west of the mill has been amended. The applicant has been requested to provide a plan demonstrating that the revised layout accords with Yorkshire Water's requirements. An update will be provided to members on this matter.

Representations

10.102 *General principle*

- *The quantum of new development stretches the enabling argument to its limit.*

Officer response: The requirement for the development in the context of the applicant's 'enabling development' argument has been considered within this appraisal.

Design

- *Concerns raised with the quality of design of the new build elements*
- *Dominance of vehicular parking detracts from the overall scheme, particularly the parking around the central green and the garage doors to the properties.*
- *The external amenities around the water areas are too heavily influenced by roads and parking.*
- *New dwellings are too close to the canal and will have a detrimental impact on the visual amenity of the canal.*

Officer response: The design of the scheme has been subject to formal pre-application advice and has been influenced by advice from Historic England. It is acknowledged that there are some elements of the scheme that are less than ideal, for example there is a predominance of parking around the 'green' to the east of the mill as well as other significant areas of parking. However, it is considered that the visual impact of parking provision has been mitigated as far as a reasonably practical and overall officers consider the design to be acceptable.

Heritage

- *Development will negatively affect the Conservation Area*
- *The archaeology of the site needs to be investigated*
- *The supporting heritage information submitted by the applicant is insufficient*

Officer response: A detailed assessment of the heritage issues has been provided within this appraisal and concludes that there would be a substantial public benefit to the proposed redevelopment and this outweighs the harm to the significance of the designated heritage assets. Furthermore, the principle of development is supported by Historic England.

An archaeological recording of the buildings on the site has previously been undertaken in connection with earlier planning applications; a copy of the most recent report has been submitted with the current application. It is unlikely that further archaeological investigation and recording would add anything new to the historic record. A condition requiring up-to-date archaeological investigation could nevertheless be imposed if deemed necessary.

Highway issues

- *Concerns with the impact of the additional traffic that would be generated on the local highway network. Existing traffic problems within the vicinity of the site would be exacerbated. The local road network is not suitable to accommodate heavy traffic.*
- *Concerns that insufficient traffic modelling has been undertaken by the applicant*
- *Concerns that the development will add to existing parking problems in the locality. Already parking issues associated with Titanic Mill and people accessing the canal.*

Officer response: The issue of traffic generation and parking provision has been directly addressed within this appraisal.

Flood risk

- *Residential development inappropriate on a flood plain.*
- *Concerns with the impact on the hydrological flow characteristics within the river Colne flood plain.*
- *Concerns with the impact of nearby chemical factories being flooded on the proposed and existing residential development.*
- *Has the flood risk assessment taken into account climate change?*

Officer response: A detailed assessment of flood risk has been provided within this appraisal.

Ecology

- *Detrimental impact on the site's wildlife value.*
- *Ecological enhancement is concentrated towards the undeveloped part of the site; the developed part of the site offers little in the way of ecological benefit.*

Officer response: Ecological issues have been considered within this appraisal.

Other matters

- *Impact on local infrastructure such as schools and medical facilities. Local infrastructure is already overstretched.*

Officer response: Education provision is a material consideration. The development triggers a contribution towards primary school places however for the reasons set out within this report the full contribution is unable to be met.

With regard to medical facilities, the development is not of a scale that would warrant new build provision. New investment in medical facilities is a matter for those providers, which will be partly based on local population size.

- *Impact on trees.*

Officer response: The impact on trees has been discussed separately within this appraisal.

- *There is not a need for additional dwellings in this location.*

Officer response: The 'need' for this development is not material planning consideration and is a commercial decision for the developer. The Council is nevertheless required to deliver new housing under the Local Plan.

- *The canal towpath is an important green corridor that needs protecting.*

Officer response: Agree. No objections have been received from the Canal and River Trust subject to a condition.

- *Potential contamination needs to be adequately addressed.*

Officer response: Conditions are recommended to address potential contamination.

- *Will any parking spaces be made available for visitors to the canal?*

Officer response: This is not proposed as part of the scheme and officers do not consider that there is a particular need or justification to seek such provision.

- *Will a room within the mill building be used to show the industrial history of the site and local area?*

Officer response: Within block C the turbine hall and a central core have purposefully been retained as larger, communal spaces to aid the legibility of the historic building. However, the mill will be in private ownership with multiple occupants and it is not considered that allowing public access into the building is appropriate as this will conflict with Secured by Design advice. The applicant's planning agent has however suggested that parts of the building could be opened up on occasions to enable public access, such as holding open 'heritage days'.

- *The history of the mills should be presented within interpretation boards to allow people to appreciate the textile heritage of the area.*

Officer response: It is considered that there is some merit in this suggestion. Officers consider that information could be displayed in some form which would aid understanding of the significance of the heritage asset and the applicant's planning agent has indicated that there may be scope for something along these lines around the entrance to the mill building. A condition can be imposed requiring details of such a feature/s.

- *A dedicated right of way through the site from Low Westwood Lane to the canal towpath is welcomed and should be designed to minimise potential conflict with vehicles.*

Officer response: The proposed pedestrian access through the site is considered suitable.

Planning obligations and financial viability

Affordable housing:

10.103 Policy LP11 of the Kirklees Local Plan requires 20% of the dwellings on the site to be affordable. Based on a total of 127 dwellings, this equates to 25 affordable units on this development.

10.104 However, it is considered that this figure would be reduced by virtue of the vacant building credit. National policy provides an incentive for brownfield development on sites containing vacant buildings. Where a vacant building is brought back into any lawful use or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floor-space of relevant vacant buildings when calculating any affordable housing contribution which will be sought. Affordable housing contributions are required for any increase in floor-space. Based on information provided by the applicant, a discount of 25% could be applied to the affordable housing requirement of 25 units, equating to a revised requirement of 19 affordable units.

Education:

10.105 Policy LP49 of the Kirklees Local Plan provides for educational needs arising from new development.

10.106 The Council's School Organisation section have advised that a financial contribution of £266,876 would be necessary towards primary school provision.

Open space:

10.107 Policy LP63 of the Kirklees Local Plan relates to the provision of open space on new developments.

10.108 The scheme almost entirely meets the requirements of this policy through the provision of on-site open space. Areas of landscaped and semi-natural open space are incorporated within the layout and there is an area of land at the western edge of the new residential development that would provide formal and informal opportunities for play. The play area is accessible from within the site as well as the adjacent canal towpath.

10.109 In addition to this, the proposal includes a separate parcel of undeveloped land just to the west of the application site. This land is within the applicant's ownership and comprises an area of protected woodland. It is proposed that new tree planting would take place here and the area retained as a managed woodland.

10.110 Full details of the proposed open space, including the dedicated play area and the separate parcel of woodland within the applicant's ownership, would be required through a condition. An inspection fee for the open space is also required (£1,000) as well as details of the arrangements for the future maintenance and management of the areas of open space and any other land that does not fall within private ownership; this would need to be secured through a Section 106 Agreement.

10.111 Given the scale of the proposals there is a requirement for some allotment provision, which the applicant's open space strategy does not provide. However, officers consider that there is scope for this to be met within the application site through the provision of a community growing area. In the absence of such on-site provision an off-site contribution of £7,000 towards existing allotment facilities within the vicinity of the site would be necessary.

Off-site highway works:

10.112 Highways Development Management have recommended that a contribution of £15,000 is secured to upgrade the signalised junction of Low Westwood Lane and Manchester Road.

10.113 It has also been recommended that an additional street light is installed along the site frontage in the interests of highway safety. This would cost approximately £2,000.

Sustainable travel:

10.114 West Yorkshire Combined Authority has requested a contribution of £133,230 to encourage the use of sustainable transport as a realistic alternative to the car. This is likely to include the provision of travel cards for residents and the upgrading of the nearest bus stop to provide real time information. An additional £15,000 contribution towards Travel Plan monitoring would also be required.

Financial Viability:

- 10.115 The applicant has submitted a financial viability appraisal which has been independently assessed on behalf of the Council. There is a difference of opinion between the independent assessor and the applicant in terms of the development costs and consequently the profitability of the scheme and the level of planning obligations that the development can support. Nevertheless, it is generally accepted that the development is unable to deliver a policy compliant Section 106 package because of the cost associated with the redevelopment of the listed building.
- 10.116 Planning Practice Guidance indicates that a profit level of 15-20% of gross development value is generally considered to be a suitable return to developers. There are a number of factors that determine what a reasonable level of profit might be, including the availability of development finance, the state of the market and the consequent risk in proceeding with schemes, as well as development values and demand. In determining the appropriate level for an individual development, regard will be had to the individual characteristics of that scheme.
- 10.117 Based on the independent assessment, the scheme would generate a profit of 14.5% on Gross Development Value (GDV) when affordable housing is omitted but education and sustainable travel contributions are included. This profit level falls slightly short of advice in Planning Practice Guidance in terms of a minimum profit level.
- 10.118 If all Section 106 obligations are removed then the independent assessment shows that the profit level would be increased to 16.69% on GDV, which is towards the lower end of the spectrum of a suitable return for the developer. Given the complexities associated with developing this site as well as other issues which may affect sales values such as flood risk, the scheme could not reasonably be considered as low risk. There is also a degree of uncertainty around sales values for this type of development because there are not any directly comparable schemes within this area. As such officers consider that this profit level would represent a suitable return.
- 10.119 The applicant does not agree with the conclusions of the independent assessment on the profitability of the scheme. The applicant considers that the profit level would be much less than has been suggested because of the cost of converting the listed mill, albeit the applicant's estimated profit of less than 9% of GDV is something that he is willing to accept on this particular site.
- 10.120 The reason the applicant disputes the assessor's conclusions is that the independent assessment has allowed for a conversion cost that is roughly the same cost as that for the construction of the new build dwellings. The applicant strongly refutes this assumption and considers that the mill conversion costs would be significantly higher (by at least 45%). This results in a substantial difference between the projected development costs and as such has an impact on the developer profit.
- 10.121 The Conservation and Design team have considered the respective mill conversion costs. It is known that the mill is in very poor condition and will require significant repair, stabilisation and reconstruction works, as well as the adaptation to create the residential units. A breakdown of the scope of works

has been provided which gives an indication of the estimated cost for the repair, reconstruction and residential fit-out. Officers are of the opinion that the cost of the redevelopment of the mill is highly likely to be significantly greater than the new build cost and as such officers consider that the applicant's appraisal figures are more realistic in this regard. This means that the viability of the scheme is likely to be more marginal than the independent assessment suggests.

10.122 The applicant is confident that his conversion costs are accurate and to this end has agreed to include an 'overage' clause on this element of the scheme as part of any permission. This would relate to the 38 apartments that would be formed within the existing mill (but not the 25 apartments within the extension to the mill). Such a clause would mean that should the conversion costs fall below the figure assumed by the applicant then the viability of the scheme would be reappraised, and a proportion of any additional developer profit could then be secured towards planning gain. Having said that, officers have accepted that a profit level of slightly less than 17% of GDV (as has been suggested is achievable within the independent appraisal) represents a suitable return on this site given the level of risk. As such, there would have to be a very considerable 'saving' before the profit level was increased to such an extent so that it justified further planning gain.

10.123 The applicant's viability appraisal has allowed for a contribution of £73,000 towards a Section 106 'pot'. Officers have negotiated that this is increased to £90,000; this is to include an additional £17,000 for the off-site highway works (junction improvements and additional street light). The remaining £73,000 could be used towards education provision, sustainable travel measures or off-site affordable housing provision in this housing market area. Officers are of the opinion that the contribution should be used to meet a proportion of the substantial education requirement that is generated by the development.

Conclusion on planning obligations and financial viability:

10.124 There have been extensive negotiations between officers, the applicant and the independent assessor regarding the viability of the development.

10.125 It is evident that, to a greater or lesser extent, the viability of the scheme is marginal and the principal reason for this is because of the cost of redeveloping the listed mill.

10.126 Officers have concluded that the applicant's estimated cost of the mill conversion works is reasonable and have therefore accepted this for the purposes of the financial appraisal. An overage clause on the mill conversion can however be included in the event that the conversion costs end up being significantly less than the applicant anticipates and in turn yields a substantial uplift in the level of developer profit.

10.127 It is accepted that the scheme is unable to deliver affordable housing, the full education contribution and a contribution to promote sustainable travel. Some planning gain can nevertheless be secured (£90,000) and officers recommend that this is used towards the aforementioned highway works and education provision.

10.128 The proposal is able to fully meet open space requirements, subject to the inclusion of a community growing area to address the requirement for allotment provision. This can be secured as part of the detailed landscaping scheme.

Ecology and trees

10.129 Policy LP30 of the Kirklees Local Plan states that the council will seek to protect and enhance the biodiversity of Kirklees. Development proposals are required to: result in no significant loss or harm to biodiversity; minimise impact on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist; safeguard and enhance the function and connectivity of the Kirklees Wildlife Habitat Network and; incorporate biodiversity enhancement measures to reflect the priority habitats and species identified.

10.130 The settling pond on the site is designated as a Local Wildlife Site (LWS) in the Local Plan and the adjacent canal corridor also forms a LWS.

10.131 The application is supported by a range of ecological information, including a Preliminary Ecological Appraisal, relevant species survey information (including bat surveys), an Ecological Impact Assessment and a Biodiversity Management Plan.

10.132 The Ecology Unit has assessed all the submitted information and there are no objections to the principle of the proposed development. The scheme is however required to deliver a net biodiversity gain and the applicant's biodiversity net gain assessment is currently showing a slight biodiversity loss on the site (-1.08%), although this does not take account of the detailed landscaping proposals for the site which would have a positive impact on the calculation.

10.133 The council seeks a net biodiversity gain of 10% on development sites such as this. The applicant is required to demonstrate that such a gain will be achieved; this can either be through the detailed landscaping scheme and/or off-site enhancement – either on land owned by the developer, a habitat bank or providing a commuted sum to the council.

10.134 Officers are satisfied that this detail can be agreed prior to any permission being issued or alternatively can be secured through the Section 106 agreement or via a planning condition. This is necessary so that the application accords with Policy LP30.

10.135 The Ecology Unit has also sought assurances regarding the boundary between the settling pond (LWS) and the adjacent residential properties that form part of block K. It is proposed to have a hedgerow along the boundary to provide a green buffer, which offers some sight protection to the LWS, although concerns have been raised regarding the long-term management of the hedge as well as the proximity of residential gardens because there is the potential for garden waste to be tipped over the hedge into the LWS. The Ecology Unit has sought a wider undeveloped buffer between the LWS and the gardens.

- 10.136 The rear gardens abutting the settling pond are small in size and there is limited scope to provide a particularly meaningful buffer. The applicant has however indicated that a fence could also be provided parallel to the hedgerow which would leave the banks of the settling pond as access for maintenance and discourage potential mis-use by the owners of the adjacent houses. The area immediately adjacent to the settling pond would fall under the responsibility of a management company. The properties that border onto the LWS could also be provided with garden/green waste bins, at the applicant's expense, to further discourage any tipping of garden waste into the LWS.
- 10.137 None of the trees within the development site are protected through a formal Tree Preservation Order however as the site is within a Conservation Area all trees above a certain size are automatically protected.
- 10.138 The majority of the trees that are proposed to be removed in order to facilitate the development are of low quality and provide limited amenity value. There are however two trees that are proposed to be removed which have been identified as being good quality, both in terms of their health and amenity value. One of these trees is located to the west of block G (extension to the mill) and the other is located close to the canal in between block A (original mill) and block J (new build terrace). The proximity of these two trees to the new development makes their retention very difficult from a construction point of view.
- 10.139 The loss of trees on the site needs to be balanced against the benefits of the development as a whole. The applicant is proposing to compensate for the loss of trees on the site with new planting and the proposed layout indicates that replacement trees would be provided in the same locations as the two trees which have been mentioned above. It is important that mitigation planting is of sufficient quantity and quality to replace the amenity value lost as it will take many years for replacements to reach sufficient size and stature to effectively replace the lost amenity value. Details of the compensatory tree planting will form part of the detailed landscaping scheme which would be required by condition.
- 10.140 The applicant has submitted information to demonstrate that the trees along the River Colne can be retained and protected during the construction of the proposed development. As these trees are a strong visual feature of the site it is important that they are protected. A condition requiring information to demonstrate that the measures set out in the applicant's Arboricultural Method Statement have been complied with is recommended.

Other Matters

- 10.141 There is not a formal public right of way within the site although there is an unmarked path that crosses the site in an east-west direction and connects the canal towpath with Low Westwood Lane.
- 10.142 The proposal makes provision for public access through the site. The layout includes access from the canal towpath into the development site; this is at the western end of the site and just to the east of the mill buildings. Further public access into the site can be gained via the main access road as well as along the existing drive entrance on the southern side of the settling pond.

- 10.143 Pedestrian access through the site would be along a mixture of dedicated pedestrian walkways, shared surface and adoptable 2m wide footway. The applicant has provided a plan which shows the proposed public right of way through the site. The dedication of a public access right can be secured via the Section 106.
- 10.144 Securing formal public access through the site, which will enable the public to access the proposed open space and continue to use an informal route across the applicant's land, is a benefit of the application.
- 10.145 The separate parcel of open space that is divorced from the development site and within the applicant's ownership would continue to be accessible from the canal towpath.
- 10.146 The site is located to the south of the Huddersfield Narrow Canal, which is supported above the site by means of an existing embankment. The Canal and River Trust have been consulted on the application (as amended) and no objections have been raised. This is subject to a condition requiring a risk assessment and method statement to ensure that the means of construction and final design of the proposed development do not undermine the integrity of the supporting structure.
- 10.147 The site is potentially contaminated because of its historic use. To this end a suite of conditions are recommended to address potential contamination issues.
- 10.148 The Police Architectural Liaison Officer raises no objection to the application on the basis that the recommended Secured by Design advice has been incorporated into the scheme.
- 10.149 To promote lower carbon forms of transport and mitigate the impact of the development on air quality it is considered that electric vehicle recharging points should be provided. A condition is therefore recommended requiring details of a scheme for the provision of electric vehicle recharging points for the individual dwellings. This is to accord with Policy LP24 of the Kirklees Local Plan, guidance in the NPPF and the West Yorkshire Low Emissions Strategy (WYLES).

Climate change

- 10.150 On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan 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.
- 10.151 The proposal involves the recycling of some previously developed (brownfield) land and in this regard represents an efficient use of land and resources.

10.152 The scheme provides replacement tree planting as part of the proposed layout as well as supplementary tree planting in an area of managed woodland to the west of the site. This will help to mitigate the impact of the development on climate change.

10.153 The accessibility of the site to the adjacent canal, which is integrated into the proposed layout, will facilitate and help to promote low emission forms of transport. In addition, electric vehicle recharging points would be provided which will help to mitigate the impact of this development on climate change. Suitable cycle storage facilities are also proposed.

11.0 CONCLUSION

11.1 There are a number of significant planning issues associated with this application, not least heritage, Green Belt and flood risk matters.

11.2 The Grade II* status of the mill complex means that it is in the top 8.3% of listed buildings in England. The building is however in poor condition and is included on Historic England's 'at risk' register. Very considerable weight is therefore attached to the proposed restoration of the mill, which is supported by Historic England.

11.3 The restoration of the mill can only be realised with a substantial amount of new build development, which is predominantly located within the Green Belt. This aspect of the scheme represents inappropriate development in the Green Belt and should only be approved in very special circumstances. Officers consider that this 'enabling development' to facilitate the restoration of the mill constitutes very special circumstances to outweigh the harm to the Green Belt.

11.4 The site sits next to the River Colne and is located in a high flood risk area, which includes functional floodplain. The applicant has carried out their own site-specific flood modelling and is proposing to carry out engineering works that would mean that new development falls outside of the revised functional floodplain boundary. There is however a degree of flood risk to some of the proposed development. The layout has sought to minimise this as far as reasonably practicable and the applicant is proposing a series of measures designed to mitigate the risk. This risk has been weighed in the planning balance and officers have concluded that the scheme can be supported.

11.5 The design of the proposal is considered to be of high quality and will deliver a number of benefits including significant on-site open space, public access through the site, the restoration of the original mill pond and an improved aspect to the canal corridor. The development would also deliver a 'windfall' of 127 dwellings that would contribute towards the council's housing delivery targets within the Local Plan. A net gain to biodiversity would also be secured as part of any permission.

- 11.6 The viability of the scheme is significantly affected by the costs of restoring the listed buildings and this means that the scheme is unable to deliver affordable housing or meet the full education requirement. The proposal would nevertheless deliver some financial planning gain (£90,000).
- 11.7 The highway impacts of the development are considered acceptable.
- 11.8 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.
- 11.9 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. Time limit (3 years)
2. Development in accordance with the approved plans
3. Detailed scheme for the mill conversion works (scope of repair and refurbishment)
4. Approval of samples of materials
5. Detailed hard and soft landscaping scheme (soft landscaping to address biodiversity net gain and provide suitable replacement tree planting)
6. Noise assessment and noise mitigation
7. Detailed highway design (including internal road layout, highway retaining structures, proposed footway to site frontage)
8. Construction method statement to mitigate the impacts of construction
9. Provision of all of the proposed flood mitigation measures
10. Flood evacuation plan
11. Scheme for detailed drainage design
12. Temporary drainage during construction
13. Scheme to deliver a biodiversity net gain
14. Risk assessment and method statement to protect the canal retaining embankment
15. Suite of contaminated land conditions (Phase II site investigation, remediation and validation)
16. Scheme for the provision of electric vehicle recharging points
17. Submission of evidence/confirmation that the measures set out in the arboricultural method statement have been complied with
18. Details of provision of heritage interpretation board or similar feature to aid public understanding of the importance of the mill site
19. Garden waste bins to be provided for properties within block K that back onto the settling pond

Background Papers:

Application and history files.

Website link:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f90710+>

Certificate of Ownership – Certificate B signed (Notice served on Mr. D Wilson)