
Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 03-Feb-2022

Subject: Planning Application 2021/93329 Partial change of use of building from Sui Generis (drinking establishment) to B8 (storage and distribution), partial demolition of existing building and erection of two storey extension to comprise ground floor B8 Use (storage and distribution) and first floor C2 Use (residential dwelling) and other associated works The Six Lanes Ends Public House, Leeds Road, Heckmondwike, WF16 9DQ

APPLICANT

Six Lane Ends Motor
Company

DATE VALID

26-Aug-2021

TARGET DATE

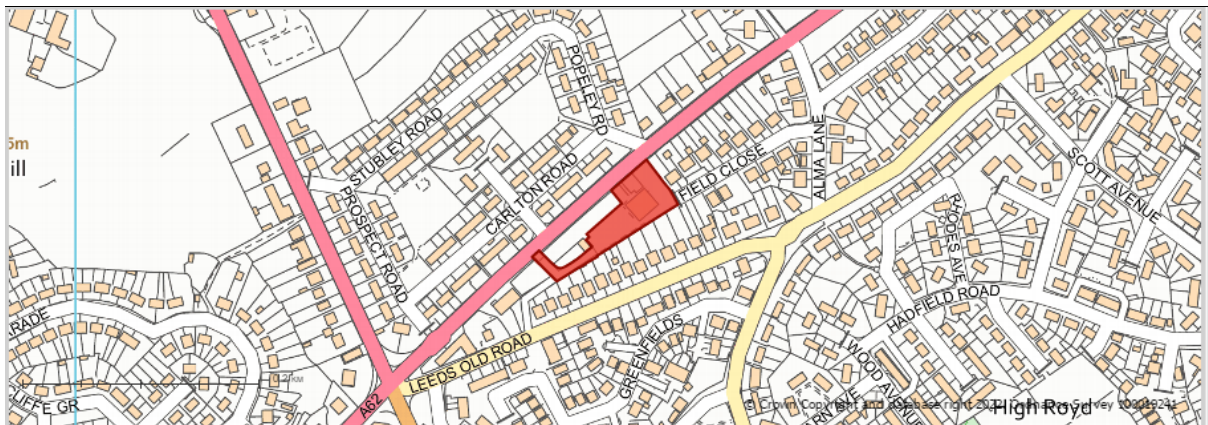
21-Oct-2021

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.

[Link to Public speaking at committee](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Heckmondwike

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

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

1.0 INTRODUCTION

1.1 The application has been brought before the Heavy Woollen Planning Sub-Committee due to the number of representations received (16). This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDING

2.1 Six Lane Ends Public House is a large, single storey, flat roofed, modern structure, set between a large car park to the west and a sizeable grassed open space to the east. Approximately a third of the building, to the south-west side of the building is utilised as a storage and distribution use, with access from the car park. The site is accessed from Leeds Road.

2.2 The building is faced in painted brick with some cladding. There are residential properties to the front, north-east side and to the rear, with a van sales site and car park to the south-west.

3.0 PROPOSAL

3.1 The application is seeking planning permission for the partial change of use of building from Sui Generis (drinking establishment) to B8 (storage and distribution), partial demolition of existing building and erection of two storey extension to comprise ground floor B8 Use (storage and distribution) and first floor C2 Use (residential dwelling) and other associated works.

3.2 The proposed development would see the storage and distribution use occupy the entire ground floor as opposed to the minority part of the building the existing storage and distribution use occupies.

3.3 The north-eastern elevation of the building would be demolished with a two storey structure erected in its place. The first floor would host two, two-bedroom flats which would have a similar configuration. The ground floor would be used for storage with two roller shutter doors erected for access in the building from this elevation.

3.4 The site would utilise the existing access from Leeds Road, with the vehicular access continue around the south-east side of the building. Six parking spaces would be formed alongside a hardstanding area where the existing overgrown beer garden is currently located.

3.5 The proposed materials are to match existing as per the application form.

4.0 RELEVANT PLANNING HISTORY

4.1 2013/91110 - Alterations including new pedestrian access, extension to car park and beer garden - approved.

2015/90901 - Illuminated signage - refused

2015/90802 - Change of use of car park to form car sales, formation of new access and associated works - approved with a s.106

2016/90523 - Discharge of conditions relating to 2015/90802 – approved

2020/92292 - Partial change of use from A4 (drinking establishment) to B8 (storage and distribution) and alterations – approved.

5.0 HISTORY OF NEGOTIATIONS

5.1 The scheme has comprised of various revisions. The original scheme proposed an access from Field Close. Officers sought the removal of access on highway safety grounds given Field Close is a narrow residential cul-de-sac which is not considered suitable as an access to a B8 storage and distribution unit. Officers also entered into discussion with the agent regarding controlling by condition who can reside in the proposed residential accommodation. The agent also made a revision to the height of the proposed roller shutter doors for functional reasons.

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 20th July 2021).

Kirklees Local Plan (2019):

6.2 LP1 - Presumption in favour of sustainable development
LP7 – Efficient and effective use of land and buildings
LP21 - Highway safety and access
LP22 - Parking
LP24 - Design
LP28 - Drainage
LP30 - Biodiversity and Geodiversity
LP48 – Community facilities and services
LP51 - Protection and improvement of local air quality
LP52 - Protection and improvement of environmental quality
LP53 - Contaminated and unstable land

National Planning Policy Framework (2021):

- 6.3 Chapter 6 - Building a strong, competitive economy.
Chapter 8 – Promoting healthy and safe communities
Chapter 12 - Achieving well designed places.
Chapter 14 - Meeting the challenge of climate change, flooding and coastal change.
Chapter 15 - Conserving and enhancing the natural environment.

Supplementary Planning Guidance / Documents:

- 6.4 Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
- Housebuilders Design Guide SPD (2021)
 - Highways Design Guide SPD (2019)
 - Planning Applications Climate Change Guidance (2021)

7.0 PUBLIC / LOCAL RESPONSE

- 7.1 The application was advertised in accordance with the Kirklees Development Management Charter. Final publicity expired on 08th October 2021. 16 representations have been received, all in objection to the proposal. It should be noted that these comments were made on the original scheme, prior to the access from Field Lane being removed. The representations have been summarised as follows:

- All 16 representations object to the proposed access from Field Close on highway safety ground. This included matters such as vehicle movements, pedestrian safety and parking issues amongst others.
- One representation objected to the proposed two storey element as they state it would block sunlight to neighbouring properties.

8.0 CONSULTATION RESPONSES

- 8.1 Below is a brief summary of the consultation responses received. These comments will be discussed in further detail where relevant later on in the assessment.

8.2 Statutory Consultees:

KC Highways DM – No objection subject to: no access provided from Field Close, and with a condition that no large or medium goods vehicles are allowed to access the site for the proposed use.

KC Environmental Health – No objection subject to conditions relating to: a noise report; the occupant of the flats to be owner, employee or dependant thereof the business below; hours of use for the business; unexpected contaminated land; and, the provision of electric vehicle charging points.

8.3 Non-Statutory Consultees:

None

9.0 MAIN ISSUES

- Principle of Development
- Visual Amenity
- Residential Amenity
- Highway Safety
- Other Matters
- Representations

10.0 APPRAISAL

Principle of Development

Proposed Storage and Distribution Use

- 10.1 The proposal would provide an expansion of an existing storage and distribution business which benefits from permission granted under planning application 2020/92292. The applicant has not stated that the use would increase the number of employees; however an increase in size of storage and distribution facility would likely support economic growth in the future. Paragraph 81 of the NPPF states that 'Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.' The principle of development for this proposal, which seeks to expand an existing business on an unallocated site, can therefore be supported given the proposal directly accords with Paragraph 81 of the NPPF.
- 10.2 Local Plan policy LP7 states that '*To ensure the best use of land and buildings, proposals:*
- a. should encourage the efficient use of previously developed land in sustainable locations provided that it is not of high environmental value;*
 - b. should encourage the reuse or adaptation of vacant or underused properties;*
 - c. should give priority to despoiled, degraded, derelict and contaminated land provided that it is not of high environmental value;*
 - d. will allow for access to adjoining undeveloped land so it may subsequently be developed.'*
- 10.3 The proposed scheme would see the entire building be bought back in to use, in comparison to where only approximately one third is utilised. The development would therefore see the re-use of an underused property which is directly supported by policy LP7. The site is not of high environmental value either, thus, its re-use should be supported give the scheme accords with Local Plan policy LP7.

Proposed Residential Use

- 10.4 With regard to the proposed residential use, the site is without notation on the Kirklees Local Plan. Policy LP1 states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. Policy LP1 goes on further to stating that: 'The Council will always work pro-actively with applicants jointly to find solutions which mean that the proposal can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area'.

- 10.5 The development would provide two dwellings on the site where there is no current residential use. As such, it is appropriate to consider the Local Planning Authority's overall housing position. The housing land supply position has recently been updated to provide evidence for a forthcoming planning appeal against the refusal of planning permission. The Council can currently demonstrate 5.17 years of deliverable housing land supply and therefore continues to operate under a plan-led system. As the Kirklees Local Plan was adopted within the last five years the five year supply calculation is based on the housing requirement set out in the Local Plan (adopted 27th February 2019). Chapter 5 of the NPPF clearly identifies that Local Authority's should seek to boost significantly the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.
- 10.6 As the proposal seeks to add two dwellings on an unallocated site, the principle of residential development is considered acceptable given the above.

Loss of Community Facility

- 10.7 Whilst some of the site has already been granted permission for a storage use, this proposal would see the full extent of the former drinking establishment use, which is considered to constitute a community facility, lost. Local Plan policy LP48 is therefore of relevance and states:

'Proposals which involve the loss of valued community facilities such as shops, public houses and other facilities of value to the local community will only be permitted where it can be demonstrate that:

- a. there is no longer a need for the facility and all options including the scope for alternative community uses have been considered; or*
- b. its current use is no longer viable; or*
- c. there is adequate alternative provision in the locality to serve the local community which is in an equally accessible location; or*
- d. an alternative facility of equivalent or better standard will be provided, either on-site or equally accessible; and*
- e. any assets listed on a Community Asset Register have satisfied the requirements under the relevant legislation.'*

- 10.8 By the use of the word 'or' in policy LP48, the proposal only needs to meet one of the criteria labelled (a) through to (e). In this instance, there are two drinking establishments within 1km of the site, thus meeting the requirements of point (c). Furthermore, a case could be made that the current use is not viable (point b) in this location given the length of time that the drinking establishment has been closed, and previous need for economic diversification on the site. Given the location of other drinking establishments close by and the unviable nature of this use on the site, the loss of the facility to enable the proposed development to take place is considered to accord with Local Plan policy LP48.

- 10.9 With regard to national policy, paragraph 93 within Chapter 8 of the NPPF states planning decision should '(c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.' However, given the points raised in paragraph 10.8 above, the loss of this facility would neither hamper the community's ability to meet their needs, nor would the existing use be considered 'valued' given that the use has ceased. For this reason, the proposal accords with the aims of Chapter 8 of the NPPF.

Principle of Development Conclusion

- 10.10 The proposed scheme would see the efficient re-use and adaptation of a currently underused property. The principle of development for both the storage and distribution use and residential use is considered acceptable for the reasons mentioned above. Furthermore, the loss of the community facility is justifiable as per Local Plan policy LP48. The proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety. These issues, along with other policy considerations, will be addressed below.

Impact on Visual Amenity

- 10.11 Policy LP24 of the Kirklees Local Plan states 'Proposals should promote good design by ensuring:
- the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape.
 - extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details.'

Chapter 12 of the NPPF echoes this on a broader level.

- 10.12 The proposed development would involve the demolition of the north-eastern elevation. This elevation offers no real value in terms of design; thus, its demolition is considered acceptable. The existing building is flat roofed, and single storey which appears of various different sizes given the varying land levels around the building. The building whilst being relatively modern, is of its time and offers no real quality or value in terms of design and appearance. Furthermore, the parts of the building not in use and rear of the site have become somewhat run-down. The form, land topography and design of the host building not only sets a relatively low bar in terms of design, but also limits the form future development can take to functionally and visually correlate to the existing building.
- 10.13 Typically, a flat roofed, two storey extension as proposed would not be considered acceptable on design grounds, however, as the design of the host building limits the scope of what would accord with the existing development any other roof form would appear out of context and not respect the form of the host property. Whilst the proposal would introduce a second storey, it would only exceed the existing highest point of the building by 15cm and would not appear too tall in the street scene given two storey dwellings surround the site. In addition, the use of matching materials would be in keeping with the appearance of the host building. In terms of subservience, the original building would still appear dominant given works are to one side only. The windows and openings would be positioned in a balanced manner.

- 10.14 For these reasons, whilst officers accept the design is not of the highest quality, the extension would be subservient to the original building and would be in keeping with the existing buildings in terms of scale, materials and details as required by Local Plan policy LP24 and Chapter 12 of the NPPF. For this reason, the scheme is considered acceptable with regard to Visual Amenity.

Impact on Residential Amenity

- 10.15 Local Plan Policy LP24 states that proposals must ensure they do not harm the residential amenity of neighbouring occupiers and future occupiers of the proposed development. Although the scheme is not to build houses per se, as it does include the formation of flats, the Housebuilders Design Guide SPD is relevant. Principle 6 advises that residential layouts must ensure adequate privacy and maintain high standards of residential amenity, to avoid negative impacts on light, outlook and to avoid overlooking. Paragraph 7.19 of the Housebuilder's Design Guide sets out that a 12 metre separation distance is required between windows of habitable rooms that face onto windows of a non-habitable room.

Residential amenity impact of the proposed flats on neighbouring dwellings

- 10.16 With regard to neighbouring occupiers, the habitable room windows of the proposed flats would be set 14m away from the side elevation of the closest dwelling on Field Close. This separation accords with the layout guidance provided in the Housebuilders Design Guide SPD. This separation distance is considered sufficient enough to ensure no.28 Field Close is not detrimentally harmed with regard to privacy. The development would only see the building increase in height by 1.5m, thus, the provision of the second storey to provide the flats would not overshadow any dwellings given the aforementioned separation distance.

Residential amenity impacts of the proposed storage and distribution use

- 10.17 The ground floor extension would be set 12m away from the dwelling, with a parking and forecourt area set between the building and no.28 Field Close. The north-eastern elevation would also contain roller shutter doors which suggests the forecourt could become a hive for activity associated with the proposed use. The design and modest separation distance mean that it is a reasonable concern that a proposed commercial use at the site could harm the residential amenity of no.28 without any controls.
- 10.18 Officers note that generally a B8 storage and distribution use is associated with less harm than other industrial/commercial uses as insinuated by the permitted development rights surrounding a B8 use. It is worth noting that the case officer is not aware of any complaints regarding disturbance from the existing storage and distribution use on site, nevertheless, officers still deem conditions to be necessary to ensure the larger storage and distribution use proposed does not cause detrimental harm to neighbours. For this reason, officers will impose the following conditions:

- The use hereby permitted shall not be open to customers outside the hours of 08:00 to 18:00 Monday to Fridays only. No business-related activities on Saturdays, Sundays or Bank Holidays. This includes no deliveries to, or dispatches from the premises outside these hours. This condition aligns with the previous permission granted under 2020/92292.

- No large or medium goods vehicle (as defined within the Road Traffic Act 1988) shall access the site to utilise the storage unit at any time.

- 10.19 The two conditions above will limit the noise and general disturbance that can be caused by the proposed use. Subject to these conditions the proposed storage and distribution use would not be considered to materially harm the amenity of neighbouring dwellings, thus according with Local Plan Policy and Chapter 12 of the NPPF. Officers do however consider further conditions being required to protect the amenity of future occupiers of the proposed flats.

Residential amenity impact of the proposed storage and distribution use on the proposed flats

- 10.20 There is a clear conflict between having a storage and distribution use and residential use on the same site, with one set directly above the other. This is further exacerbated by: the access to the flats being the same vehicular access that serves the business; the vehicular parking being set on the new forecourt by the roller shutter does that serve the business; and, the door to the flats opening on the said forecourt. Furthermore, no outdoor amenity space is provided for the flats. The general close proximity and intertwined nature of the two uses on the site means a suitable standard cannot be provided for the flats if they were to be sold/let on the open market. However if the flats were to be occupied by the owner, a member of staff or dependents thereof of the storage and distribution/commercial premises, the standard of amenity would, on balance be acceptable given the connection between those persons and the business. For reference, the flats provide a suitable interior floor space for a 2 bed, 3 person flat as per the Technical housing standard – national described space standard (2015).

- 10.21 Subject to a condition for the flats to be occupied by the owner, a member of staff or dependents thereof of the storage and distribution/commercial premises, the proposed flats are considered satisfactory with regard to residential amenity.

Residential Amenity Conclusion

- 10.22 Overall, subject to conditions as set out above, the proposed development is considered, on balance, to accord with Local Plan Policy LP24, Chapter 12 of the NPPF and the Housebuilders Design SPD.

Impact on Highway Safety

- 10.23 Planning permission was granted in February 2021 for the partial change of use from A4 (drinking establishment) to B8 (storage and distribution) and alterations – application number 2020-92292. Access to this site was from Leeds Road only. Condition 4 of this permission was worded as follows:

4. No large or medium goods vehicle (as defined within the Road Traffic Act 1988) shall access the site to utilise the storage unit at any time.

Reason: *In the interest of highway safety and to accord with policies LP21 & LP22 of the Kirklees Local Plan and National Planning Policy Framework.*

- 10.24 The current application includes the erection of a two-storey extension to comprise ground floor B8 Use (storage and distribution) and first floor residential use (2x two bedroomed apartments). Whilst KC Highways Development Management have no objection to the revised scheme given it no longer includes an access from Field Close, KC Highways Development Management comments are based upon the condition referenced above (10.17) being retained. Furthermore, a condition for appropriate surface water drainage is required on highway safety grounds. Subject to a condition for no large or medium goods vehicle (as defined within the Road Traffic Act 1988) accessing the site to utilise the storage unit at any time, which is also sought for residential amenity purposes, and the aforementioned drainage condition, the scheme is considered to accord with Local Plan policies LP21 and LP22 and relevant national policy.

Other Matters

Noise

- 10.25 Local Plan policies LP24 and LP52 seek to ensure that proposed uses do not cause noise pollution, but are also not detrimental affected by noise pollution from existing noise generators close by. The proposed development is immediately adjacent to the A62 Leeds Road. The operations associated with the storage and distribution use are also likely to create noise. However, the proposals plan to introduce noise sensitive receptors at the site. As the plans show no noise mitigation measures at the proposed development, KC Environmental Health have concerns that the future occupiers of the development may be negatively impacted by noise whilst inside the property from road traffic and the activities in part of property which is proposed as storage and distribution use.
- 10.26 Whilst KC Environmental Health requested the submission of a noise report prior to determination, officers do not consider this to be necessary as it is highly unlikely the noise matters cannot be suitably mitigated on the site. This is evident by the number of dwellings along Leeds Road which are not detriment by nearby noise generating uses. However, as the findings of a noise report would likely require noise mitigation measures to be installed in the property, the submission and approval of the noise report and strategy must be prior to building works commencing on the superstructure but can be post-demolition. Given this, a condition will be included for the submission for an assessment of all significant noise sources likely to affect the proposed development including road traffic and commercial premises by a suitably competent person (see note), to be approved by the Local Planning Authority. Subject to this condition, the proposed development can be considered to accord with Local Plan polices LP24 and LP52 with regard to Noise.

Climate Change

10.27 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. The proposal is for the erection of a detached dwelling. To ensure it contributes positively to mitigating the impact of climate change and air quality, a condition should be inserted to the decision notice requiring two electric vehicle recharging points, one for each dwelling, to be installed and operational on the site prior to occupation of the dwelling. This is to comply with the aims of policy LP24 of the KLP and chapters 9 and 14 of the NPPF, which seek to promote sustainable transport and to support low carbon future.

Contaminated Land

10.28 The Case Officer and KC Environmental Health have reviewed the application. The site is located within 25m of a historic coal pit thus coal may be encountered during construction works, then a combustion risk and/or a risk from mine gas may exist. Given the scale of the groundworks proposed, it would be unreasonable to request full contaminated land conditions. However, as some groundworks are proposed, it is appropriate to apply contaminated land conditions should unexpected contamination be encountered. Subject to said unexpected contaminated land condition, the scheme can be considered to accord with Local Plan policy LP53 and Chapter 15 of the NPPF with regard to contaminated land.

Representations

10.29 16 representations have been received, all in objection to the proposal. It must be noted that these comments were made on the original scheme, prior to the access from Field Lane being removed. The representations have been summarised as follows:

- All 16 representations object to the proposed access from Field Close on highway safety ground. This included matters such as vehicles movement, pedestrian safety and parking issues amongst other.

Response: Noted and addressed throughout the application process. Subsequently the proposed access from Field Close was removed from the revised scheme and is no longer a part of the application.

- One representation objected to the proposed two storey element as they state it would block sunlight to neighbouring properties.

Response: Noted and addressed in paragraph 10.11 of this report.

11.0 CONCLUSION

- 11.1 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.
- 11.2 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that proposed scheme has allow and existing business to expand, whilst also representing a more efficient use of an underused building. It is considered that the development would constitute sustainable development subject to the conditions outlined in the report above, and summarised below in section 12 of the report.

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

Below is a summary of the proposed conditions:

1. Development to begin within 3 years
2. In accordance with the approved plans
3. No business-related activities shall be carried out on the premises, including deliveries to or dispatches from the premises, outside the hours of 0800 to 1800 Monday to Friday only. No business-related activities on Saturdays on Sundays.
4. No large or medium goods vehicle (as defined within the Road Traffic Act 1988) shall access the site to utilise the storage unit at any time.
5. Submission of noise report prior to works commencing on the extension/superstructure (post demolition).
6. Flats to be occupied by owner, employee or dependent thereof of the storage and distribution use.
7. Provision of electric vehicle charging points.
8. Report of unexpected contaminated land.
9. Materials to match existing building.

Background Papers:

[Link to application details](#)

– Link to the current application.

[Link to application details](#)

- Link to 2020/92292

Certificate of Ownership – Certificate A signed: 11/08/2021