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

**STRATEGIC PLANNING COMMITTEE**

**Date: 24-Feb-2022**

**Subject: Planning Application 2018/92647 Hybrid Planning Application for mixed use development - retail/office and 229 residential units (Use Classes C3/ E(a) /B1a). Full Planning permission for the partial demolition of the former Kirklees College, erection of a food retail store and alterations in connection with conversion of grade ii\* listed building to offices/apartments and creation of vehicular access from Portland Street, New North Road and Trinity Street. Outline application for erection of (two) buildings (residential apartments - C3 Use ) (Listed Building within a Conservation Area) former Kirklees College, New North Road, Huddersfield, HD1 5NN**

**APPLICANT**

Trinity One LLP

**DATE VALID**

15-Aug-2018

**TARGET DATE**

14-Nov-2018

**EXTENSION EXPIRY DATE**

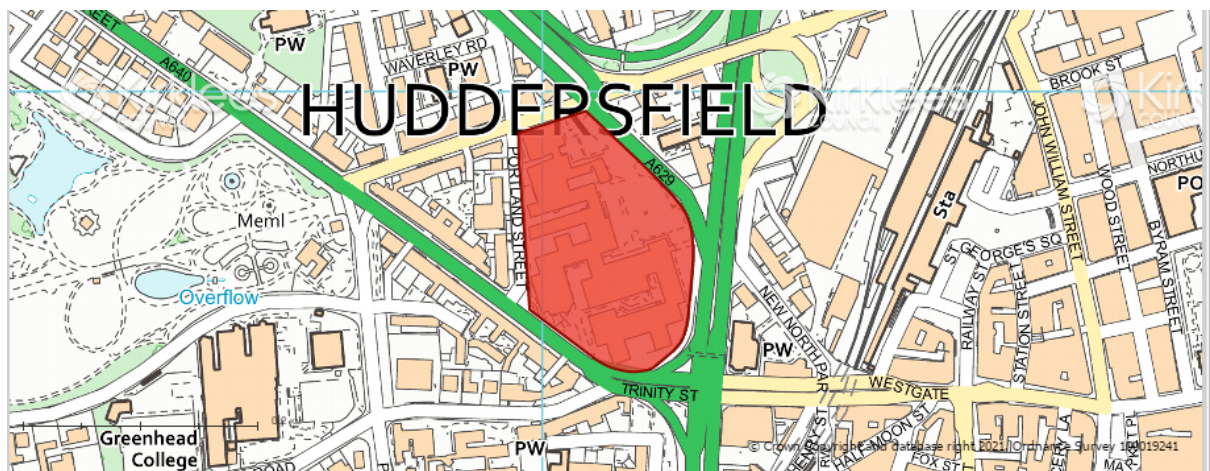
27-Feb-2021

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

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

**LOCATION PLAN**



**Map not to scale – for identification purposes only**

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**Electoral wards affected: Newsome**

**Ward Councillors consulted: Yes (referred to in the report)**

**Public or private: Public**

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**RECOMMENDATION:**

1) Refuse Planning Permission for the following reason:

In the absence of a phasing plan that secures the conversion of the listed buildings (Heritage buildings 1,2 & 3 as shown on the masterplan) to an advanced stage the development fails to provide sufficient public benefits to outweigh the less than substantial harm caused by the scheme. The inability to secure the re-use of the Grade II\* Listed Buildings would fail to comply with Policies LP35 of the Kirklees Local Plan as well as Paragraph s200 202 and Chapters 2, 4, 7 and 16 of the National Planning Policy Framework.

2). Confirmation that officers will issue an Urgent Works Notice (UWN) as and when required to preserve un-occupied listed buildings (Buildings 1,2, and 3 on the masterplan) under Section 54 of the Planning (listed Buildings and Conservation Areas) Act 1990, to require works listed a)-e) in paragraph 10.34 of this report to be completed and issued on the landowner.

**1.0 INTRODUCTION:**

1.1 This is a hybrid planning application for a mixed-use residential and retail development, incorporating 229 apartments at Castlegate, on the former Kirklees College site situated to the North of Huddersfield Town Centre. This major application is brought to Strategic Planning Committee for determination given the size of the site and the quantum of development proposed, specifically due to the number of residential units and the amount of retail floorspace proposed.

1.2 The application was first presented to the Strategic Planning Committee on 24<sup>th</sup> February 2021 with a recommendation to grant planning permission. Committee resolved to follow the recommendation to grant consent and subject to the following:

- I. A review and redesign of the food retail store
- II. the imposition of a condition to require natural stone on all elevations of the food store building,

1.3 Following the committee resolution, the applicants worked with officers of the council to review the design of the retail food-store on the southern part of the site. The amendments to the food-store (building 6 on the masterplan) are detailed in paragraphs 3.6

1.4 The applicants advised that whilst the proposed scheme had not changed in terms of quantum and uses, however, the conversion of the heritage buildings (buildings 1,2 and 3 on the Masterplan) would not be secured within the S106 phasing plan. Therefore, works to the heritage buildings controlled by the

granting of planning permission would be limited to the programme of urgent works to the heritage buildings. The draft S106 was unable to be completed and the application was returned to Strategic planning committee on 18<sup>th</sup> November 2021.

1.5 The Strategic Committee resolved to defer the application to allow officers to negotiate further with the applicants in respect of:

(i) securing works to the Grade II\* listed buildings to make them weatherproof and watertight, in order to ensure that they are preserved, at an early stage of development.

(ii) achieving certainty in respect of the restoration and conversion of the listed buildings in the future.

1.6 The applicants' held meetings with officers and having discussed the requirements of the committee resolution of 18th November, have proposed the following amendments to the phasing of the development.

1.7 Members will recall that the programme of urgent works fell into 2 parts summarised below:

Part 1 involved:

- securing a site compound around the whole of the Heritage Buildings (buildings 1,2&3),
- boarding up windows to prevent access,
- ensuring their ventilation and
- clear the downpipes and gutters of Building 1.

Part 2 involved

- making the roof of Building 1, Building 2 and Building 3 weathertight and waterproof through temporary repairs and works to
- clear the downpipes and gutters of Building 2 and Building 3 of debris and vegetation.

1.8 Stage 1 Urgent Repair Works was not to exceed the sum of £100,000.00 and Stage 2 Urgent Repair Works was not to exceed the sum of £301,000.00.

1.9 The applicant has confirmed that the completion of the programme (stages 1 & 2) of Urgent Works to the listed buildings will be brought forward from 18 months to within 9 months from date of approval of both stages of urgent works (details are included in paragraphs 10.24-10.28) and is reflected within the draft Section 106 Agreement appended at the end of the report.

1.10 During discussions the applicants did suggest in correspondence to officers' that the Overage clause (the process and trigger for reappraising viability of the development) would be removed from the applicants' scheme, however the applicants have now confirmed that the S.106 draft includes, the agreement they made to pay overage to the local authority. Details are provided in paragraphs 10.125 and in this regard an email from P. Fox dated 10.02.22 states as follows: *We previously agreed to, and the S.106 draft includes the agreement we made to pay Overage to the local authority over and above the initial £400,000 contribution and capped at a further £301,000 in the event that the scheme made greater than a 15% profit on cost (on a 50/50 basis). This is the Overage requested previously.*

- 1.11 The applicants' comments in their supporting letter dated 27<sup>th</sup> October 2021 and diagram are included in the Appendix to this report as they were at the November 18<sup>th</sup> Committee, and their content may be considered to be material considerations in the determination of this scheme. The appraisal section therefore addresses the applicants' comments and advises members on these issues. However, the weight to apply to these matters is ultimately for the Strategic Committee as the decision maker.
- 1.12 In considering the planning merits of the scheme and any material planning considerations the committee are advised to be mindful of the statutory duty of sections 16(2) and 66(1) 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 and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.
- 1.13 The majority of this report remains the same as was presented to strategic Committee in November 2021, however, the following sections have been updated:
- Phasing of the development (paragraphs 10.126-10.135)
  - Re-use of listed building (paragraph 10.24 - 10.27)
  - Overage (paragraph 10.125)
  - Conclusion (paragraphs 11.3- 11.5)
- 1.14 Officers are of the opinion that the changes since the committee in Nov 2021 do not improve the public benefits in any demonstrable way from that previously set out in the November 2021 report. The 9-month time frame the applicants have offered to undertake the urgent works is not a significant measurable benefit from when considering that the applicant is required to look after their own listed building without the need for incentive from the grant of planning permission, and should the application be refused an urgent works notice would be served to protect the listed buildings anyway.
- 1.15 If members consider that sufficient public benefits would still be delivered by this scheme and resolve to grant permission, a draft S106 agreement and draft conditions that would be attached to the planning permission is appended at the rear of the report. Members should also be aware that officers have had positive discussions with Historic England regarding the possibility of the Urgent Works to the heritage buildings being funded by Historic England if planning permission is refused and if the owner should not undertake the requirements of the Urgent Works Notice (UWN). Historic England funding is a possibility if set criteria is met as one option to repair and preserve the Grade 2\* former infirmary building and its wings.
- 1.16 Members should be mindful that there are no obligations in the S106 to bring forward Reserved Matters on the Outline elements of the site or to undertake any works beyond the scope of the urgent works to the retained listed building. Once demolition takes place and the urgent works have been completed the site does not have any further planning requirements for any construction works to take place. Overall, this is a disappointing outcome for this application which should result in the reuse of a brownfield site and protect and reuse an important listed building at the expense of demolition of a number of listed

buildings. Therefore, in officer's opinion the public benefits do not justify the demolition of listed buildings proposed in this application. The recommendation is therefore for the committee to refuse planning permission for the reason given in (1) and confirm support for officer action to serve an Urgent Works Notice upon the applicant in (2) of the recommendation.

## **2.0 SITE AND SURROUNDINGS**

2.1 The site is located adjacent to the west of Huddersfield Town Centre ring road (Castlegate A62). The site is elliptical in shape, extending to approximately 2.46 hectares (6.09 acres). It is bounded on all sides by the extensive road networks comprising Fitzwilliam Street, Portland Street, New North Road and Trinity Street. The site comprises the former Kirklees College Campus and includes a range of buildings that were built as tower blocks in the 1970s. Within the centre of the site is the Grade II\* listed former Huddersfield Infirmary Building, the Grade II Listed King Edward VII Statue and associated car parking space. The site is a Mixed-Use Allocation within the Kirklees Local Plan under ref MXS4 for housing, retail and/or leisure beyond that already permitted under planning permission 2015/93827 for the erection of a food retail store on the southern part of the site.

2.2 The site has 3 distinct character zones as identified within the applicants Design & Access Statement (dated 31/07/2020):

1. Upper site– The 1933 infirmary extension and modern corner building.
2. Historic Core – The listed original infirmary building and statue of King Edward VII.
3. College Campus– 1970s medium rise town blocks.

The wider context of the site can be summarised as mixed commercial uses in a predominantly residential area. The site is within the town centre boundary as shown in the Local Plan, which this site extends to the east. It is primarily residential to the south and north and Greenhead Park lies to the west, which provides a green island of open space for leisure and recreation purposes.

2.3 It is very accessible to Huddersfield Train Station situated within walking distance from the site (approximately 350m to the east). Huddersfield Bus Station is a comparable distance away to the southeast, both of which are accessible via the existing subway crossing the A62. The A640 and A629 both head northwest to junctions 23 and 24 respectively of the M62.

2.4 The northern part of site is within the Edgerton Conservation Area.

2.5 From the site existing views are available to the surrounding hill lines. In particular, key views exist of Castle Hill to the south and Cowcliffe Ridge to the north. The applicants state that the proposal has been informed by the 2016 Castle Hills Setting Study, in particular respecting the views of importance. Although officers accept that the layout has other key influences and that its relevance is diminished through distance.

2.6 Kirklees College vacated the site in 2013 and relocated to new purpose-built accommodation. The site has since been marketed for redevelopment, during which time the range of buildings have declined considerably and have been subject to vandalism and decay which has a negative impact in terms of visual degradation and the image of Huddersfield when entering the town.

### 3.0 PROPOSAL:

3.1 This is a hybrid planning application comprising the following:

- A full application for a retail food store on the southern part of the site (Building 6 on the masterplan) and the conversion of the principal listed building and its wings in the central historical core (Buildings 1,2 & 3 of the masterplan) to 32 residential units and office use.
- An outline permission for the majority of the proposed residential development on the northern or upper part of the site. For this part of the site, only the matters of access and scale are sought for approval. Matters of appearance, layout and landscaping would be applied for at reserved matters stage. The number of units proposed within the new residential blocks total 197 apartments of which 32 units would be within the conversion of the wings of the principle listed building.

As part of negotiations with the applicant team, the massing and height of the residential blocks was reduced from a size that would accommodate 207 to accommodate a minimum of 197 units, reducing the total numbers on the site from 239 to 229 apartments. As part of the outline application a parameter plans to fix the height and therefore the massing of the blocks has been included in the application.

3.2 When the application was received on 13<sup>th</sup> August 2018, the proposal consisted of the following:

- Residential Dwellings – 187 - 14270.9 sqm
- Use class A1 Retail and Shops - 2823.9 sqm
- Use class B1 Offices - 4139.3 sqm
- Use class C1 (Hotel) - 102 bedrooms 3759.7 sqm

3.3 However, crucially the 2 existing wings that formed part of the principle listed building on site were proposed to be demolished. This was not considered to be an appropriate design solution in heritage impact terms. Through negotiations and discussions with Council officers, Historic England, and several variations of the development form, aimed at balancing viability and the impacts upon heritage assets, the applicants arrived at the current scheme.

3.4 The quantum of development now proposed consists of the following elements:

- Residential Dwellings - 229 (Use Class C3) 13690.1 sqm (Comprising 197 new build units & 32 from the converted wings of the listed building)
- Use class B1a Offices – (Use Class B1a) 1001.9 sqm
- Food Retail (Use Class E(a)) - 1997.9 sqm

3.5 The scale and form of the proposal would be 4 and 5 storeys (above ground) for the residential apartments on the northern part of the site (Buildings 4 and 5 the illustrative masterplan) and just under 7m in height building on the southern part of the site that would contain (Building 6 on the illustrative masterplan) the retail provision for the overall development. A single storey discount food retailer is proposed, and the applicants have confirmed this is intended for the Lidl retail operator. The site layout on this part of the site is in general conformity with the previously approved layout in 2016 (2015/62/93827/W), facing west towards the main access to Trinity Street.

3.6 Since the application was presented to Strategic Planning Committee on 24<sup>th</sup> February 2021, the applicant team has worked with officers to review the design of the retail food-store on the southern part of the site. The amendments to the food-store (Building 6 on the masterplan) agreed by officers and applicant team are as follows:

- Cladding of the building supermarket in natural stone to all 4 elevations (conditions will require sample panels).
- Detailing in all 4 elevations to reflect the fenestration pattern of listed buildings 2 and 3, with recessed stone panels within the piers.
- Crown roof added and to be clad in blue slates. Should plant be required it can sit behind the roof;
- Redesign of the entrance canopy to enhance buildings individuality and character- recommended introduction of a stone pillar portico.
- Increased width of pillars.
- It is noted that not all Lidl -stores have adverts (other than the logo on the entrance) and it is preferable if this store would do the same as adverts can detract rather than enhance appearance.
- Enhancement of Landscaping /Tree planting scheme across the parcel of the site, particularly in front of the southern wing of the heritage buildings (Building 2) and along the vehicular entrance to provide boulevard entrance/ vista and embankments to the ring road.

3.7 The applicants submitted revised elevations plan and revised landscaping plans (Reference: (DR-A-8101-S3-P7 & R-2377-1C landscape) are considered to be acceptable by officers. However, the committee is the relevant decision maker and can consider the amended plans described.

#### Listed Building Consent

3.8 Listed Building Consent (2018/92687) is also sought for the alterations of the Grade II\* listed building and the demolition of other curtilage listed buildings (within a Conservation Area). These matters are assessed within the Heritage part of the report.

3.9 If members resolve to grant approval for the planning application, officers would then grant the listed building application which, under the scheme of delegation, does not require committee authorisation.

#### Access

3.10 In terms of the full planning application part of the site, vehicular access is proposed off Portland Street via four access points.

- The first would serve the retail development of the proposed food store (building 6 of Masterplan) for customer parking.

- The second access would be for servicing of the retail store only and provides a direct route to the rear of the retail store for delivery vehicles.
- The third access would serve the rear entrance and wings of the primary listed building (buildings 1 2& 3) and the rear of the Primary listed building. In this area a small amount of parking is proposed.
- The fourth vehicular access would serve the residential development to the north of the site that is in outline form and also the parking area in front of the listed building (building 1).

3.11 The existing vehicular access from the East on New North Road would be closed, details of which are recommended to be secured by condition.

### Demolition

3.12 The applicants propose to demolish all of the existing buildings on site other than the former Infirmary buildings and its wings (Buildings 1, 2 & 3 as shown on the Masterplan). A demolition plan is included with the revised submission received in August 2020.

3.13 The hybrid application has been supplemented by the following documents:

- Planning and Retail Statement.
- Design and Access Statement.
- Phase 1 Desktop & Geo Environmental Assessment.
- Flood Risk, Foul and Drainage Assessment.
- Transport Assessment
- Framework Travel Plan.
- Ecological Assessment.
- Bat survey
- Heritage Assessment.
- Noise and Vibration Assessment.
- Arboricultural Assessment.
- Air Quality Impact Assessment; and
- Coal Mining Risk Assessment

3.14 An Environmental Impact Assessment (EIA) screening opinion request was submitted, and a screening opinion processed when the pre-application submission was received. This scheme involved the high-rise residential block above the food retail store and involved the demolition of the two wings of the listed buildings. The impacts of the proposal were significantly greater than the revised scheme now under consideration. The opinion concluded that the development is not EIA development.

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

4.1 The following applications relate to this site:

2015/93827 - The southern part of the site full planning permission for demolition of existing buildings a food retail unit (Use Class A1) and associated access and landscaping. Council records demonstrate that the attached conditions were not discharged and therefore this permission has expired.



- 4.2 2018/92687 - Listed Building Consent accompanying this planning application.

2017/20041 - Pre-application. It should be noted that the scheme at pre-application stage was significantly different due to the inclusion of a building of 11 storeys in height, which incorporated the retail food store at ground level and primarily residential units above, on the southern element of the site.

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

- 5.1 2017/20041 - Pre-application submission advice was received in 2017. The scheme has been the subject of formal advice was provided in a pre-application submission.

- 5.2 The current application was received in 2018. The scheme involved the demolition of the two wings of the primary Grade II\* Listed Building and the construction of an 11-storey block comprising retail at ground floor and residential units above. Historic England and heritage consultees objected to the demolition of the wings and had concerns with the scale of the building on the southern part of the site. Negotiations resulted in a revised scheme being submitted in August 2020.

- 5.3 Since the planning application was presented to planning committee on 24<sup>th</sup> February 2021 extensive negotiations have taken place between the applicant and officers regarding the phasing of the development and content of the Section 106 agreement. These discussions focussed upon the content and timing of the Programme of Urgent Works to the heritage buildings and the mechanism for securing their conversion. Negotiations reached draft S106 Agreement stage but have been unable to reach full agreement. The design of the food-store proposed on the southern part of the site (building 6 on the masterplan) has subsequently been revised to a stage that the heritage and planning officers are satisfied with.

- 5.4 Since the application was presented to Strategic Committee on 18th November the applicants' met with officers and have held discussions on the requirements of the committee resolution and have proposed an amendment to the phasing plan and the completion of the 2<sup>nd</sup> stage of the urgent works from 18 months to 9 months from the commencement of development.

## **6.0 PLANNING POLICY:**

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

### Kirklees Local Plan (2019):

- 6.2 The application site is allocated for a mixed-use site: Land North of Trinity Street, Huddersfield (Site Ref: MXS4) in the Kirklees Local Plan. The allocation defines a mixed use - housing, employment, and retail (additional retail and/or leisure beyond that already permitted (under application 2015/93827 for the erection of a food retail store) would be subject to policy LP13 of the KLP). It gives a gross and net site area of 2.44 Ha with an indicative housing capacity of 45 dwellings and an indicative employment area of 2103 sqm. It lists the following constraints:

- Air quality issues
- Potentially contaminated land
- Odour source near site
- Noise source near site
- Part/all of the site is within a High-Risk Coal Referral Area
- Grade II\* listed former Huddersfield Infirmary building is within the site
- Grade II listed statue within the site
- Part of the site is within a Conservation Area

### 6.3 Relevant Local Plan policies are:

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  
 LP9 – Supporting skilled and flexible communities and workforce  
 LP11 – Housing mix and affordable housing  
 LP20 – Sustainable travel  
 LP21 – Highways and access  
 LP22 – Parking  
 LP23 – Core walking and cycling network  
 LP24 – Design  
 LP26 – Renewable and low carbon energy  
 LP27 – Flood risk  
 LP28 – Drainage  
 LP30 – Biodiversity and geodiversity  
 LP32 – Landscape  
 LP33 – Trees  
 LP34 – Conserving and enhancing the water environment  
 LP35 – Historic Environment  
 LP38 – Minerals safeguarding  
 LP47 – Healthy, active, and safe lifestyles  
 LP49 – Educational and health care needs  
 LP67 - Mixed Use Allocations

### Supplementary Planning Guidance / Documents:

### 6.4 Relevant guidance and documents:

- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Kirklees Housing Strategy (2018)
- Kirklees Strategic Housing Market Assessment (2016)
- Kirklees Interim Affordable Housing Policy (2020)
- Kirklees Joint Health and Wellbeing Strategy and Kirklees Health and Wellbeing Plan (2018)
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
- Negotiating Financial Contributions for Transport Improvements (2007)
- Providing for Education Needs Generated by New Housing (2012)
- Highway Design Guide (2019)
- Waste Management Design Guide for New Developments (2020)

- Green Street Principles (2017)
- Kirklees Viability Guidance Note (2020)
- Huddersfield Blueprint (2019)
- Planning Applications Climate Change Guidance (2021)
- Housebuilders Design Guide SPD (2021)
- Open Space SPD (2021)
- Biodiversity Net Gain Technical Advice Note (2021)

Climate change:

- 6.5 The council approved Climate Emergency measures at its meeting of full Council on 16/01/2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.
- 6.6 On 12/11/2019 the council adopted a target for achieving “net zero” carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target; however, it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

National Planning Policy and Guidance (National Planning Policy Framework):

- 6.7 The National Planning Policy Framework (2021) seeks to secure positive growth in a way that effectively balances economic, environmental, and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal. Relevant paragraphs/chapters are:
- 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 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
  - Chapter 17 – Facilitating the sustainable use of materials.
- 6.8 Since March 2014 Planning Practice Guidance for England has been published online.

## 6.9 Relevant national guidance and documents:

- National Design Guide (2019)
- Technical housing standards – nationally described space standard (2015, updated 2016)

## 7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was validated on 15/08/18 and was advertised by site notices, press advert and 84 neighbour notification letters. As a result, 3 letters of representation were received. In August 2020, amended plans were received and therefore, another round of publicity was undertaken. The amended plans were advertised by site notices, press advert and 84 neighbour notification letters. 3 interested parties and 2 letters of representation were received, one of which was from Huddersfield Civic Society which is included in the heritage section of the appraisal.

7.2 A summary of the comments received is provided below.

7.3 2018 Original scheme:

- Area is of significant importance to Huddersfield
- proposed new building elevations do not in any way respond to the 'Infirmery' the one listed building the developers are proposing to leave standing.
- the site does need to be developed but for such an important and visible area of Huddersfield an increased effort is required from this developer in respect of his proposed facade designs
- Huddersfield Civic Society accepts the uses but raises concern design
- profound impact the setting of the listed Infirmery building, which, as a Grade 2\* building is considered of regional importance
- mass, articulation, and fenestration, particularly those adjacent to the Infirmery, fail to reflect the architectural quality of the listed building and the town's distinctive architectural quality
- wing designed by prominent local architect, in 1874 and the wing containing the water tower are both distinctive and architecturally important features
- no approval for new buildings should be given until there is substantial and convincing evidence that these structures cannot be successfully re-used.
- level of metal cladding rather than the use of stone, particularly in relation to buildings along Portland Street and the adjacent Conservation area
- those buildings which are retained are converted and suitably restored as part of an agreed phased development and are not neglected should part(s) of the site be disposed of.

- In June 2016 the planning committee stipulated that “natural stone” should be used on the elevations of the permitted supermarket application.
- The current application for block 8 proposes extensive use of “sandstone faced rain-screen cladding”. The acceptability of this material is dependent upon its quality
- If it replicates the local stone used on the recent University Oastler building, then that would be satisfactory; any other material may not complement the adjacent Grade II\* listed building or Conservation area
- West elevations of buildings 2 and 3 have too much metal cladding but a greater proportion of sandstone should be used on the side facing Portland Street.
- Phasing of the development: Planning Authority should condition the simultaneous development of all 4 buildings.

#### 7.4 2020 - Revised Scheme:

- How happy I am to hear this and sincerely hope this application is successful.
- After 5/6 years and numerous callouts of the emergency services – both Police and Fire
- Site is a complete eyesore for visitors to this historic town putting Huddersfield in a very poor light indeed.
- The property is being used by many of the homeless community as a public convenience – and this I see on a daily basis
- Huddersfield Civic Society- welcomes retention and conversion of those buildings marked Buildings 1,2 and 3 on the submitted plan
- Notes the applicant states, this drawing shows an indicative design only
- Should a detailed application on this part of the site be submitted it is essential that attention is paid to the relationship with buildings within the adjacent Conservation Area and particularly those along Portland Street
- strong objection to the elevational details of the proposed supermarket and related car parking and would appear to achieve even lower standards of design than existing college buildings
- contrary to objectives of the Council in promoting good design, on a site which leads to the Station Gateway, where a fundamental ambition within the Council's Blueprint is to enhance the heritage and commercial attractions of the town
- greater focus on materials, elevational detail, built form and landscaping, incorporating greenspace with tree planting.
- introduction of the proposed supermarket, into an existing application, to be wholly inappropriate given no such element was included in the

- original application.
- By accepting the changes as a revision, the opportunity for members of the public to submit comments has been reduced from the time frame allowed

#### Ward Councillor comments

7.5 Ward Councillors were emailed on 12.01.2021. Any comments received will be reported in the agenda update.

### **8.0 CONSULTATION RESPONSES:**

#### **8.1 Statutory:**

KC Highways DM - No objections subject to conditions.

Lead Local Flood Authority (LLFA) - No objections subject to conditions.

Historic England – **Summary:** the principle of redeveloping this site is supported. Whilst the HE welcome some changes to the previous scheme, the loss of historic buildings – block G in particular -and the increased density of the proposed development on the north part of the site would be harmful to the character and appearance of conservation area and the setting of surrounding listed buildings, and consequently we have concerns on heritage grounds. Whilst we do not object to the proposal, we ask that your authority is satisfied that this is the minimum amount of development necessary to make the proposal viable and that can only be delivered in this particular way.

When making this judgement, we ask you to consider the ‘special regard’ which must be paid to the desirability of preserving listed buildings or their settings and preserving or enhancing the character or appearance of conservation areas. We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 127, 130, 192-196 and 200 of the NPPF. Comments in full in paragraph 10.68-10.79

#### **8.2 Non-statutory:**

##### KC Conservation & Design – Comments

The clearance and redevelopment of the former college buildings is acknowledged as a positive. However, the apparent outcome of the current proposal would be the demolition of substantial parts of the grade-II\* listed building and continuing uncertainty of the future for the retained former infirmary buildings and the northern part of the site. The public benefits of the proposed development have, therefore, not been clearly demonstrated sufficient to address the requirements of NPPF Paragraph 202 or Local Plan Policy LP35.

Advise that committee Confirm that officers can issue an Urgent Works Notice (UWN) as and when required to preserve un-occupied listed buildings (Buildings 1,2, and 3 on the masterplan) under Section 54 of the Planning (listed Buildings and Conservation Areas) Act 1990, to require works listed a)-e) in paragraph 10.34 of this report to be completed and issued on the landowner.

West Yorkshire Archaeology Advisory Service (WYAAS): Parts of the hospital require archaeological and architectural recording prior to the change of use. In particular the entrance block which housed principal accommodation for senior staff and medical facilities.

KC Ecology - No objection provided the following pre-commencement conditions are included, or ideally this information could be provided prior to determination.

KC Trees - The applicants have attempted to retain existing trees on site. No objections subject to conditions.

Georgian Group - Object. Welcomes the repair and reuse of the original c1831 former infirmary building but object to the demolition of a number of the later nineteenth and early twentieth century former hospital buildings.

Huddersfield Civic Society - Object. Welcomes the Retention & Conversion of buildings 1, 2 & 3. Strong objection to the elevational details of the proposed supermarket and related car parking supermarket would appear to achieve even lower standards of design, as very prominent site. Severely question Council's commitment to its own Blueprint and its ability to positively promote high standards of architecture and design.

Yorkshire Water - No objections subject to conditions.

KC Strategic Housing - No objection. Based on a development of 239 residential units, 48 units are sought from this development. for 1 and 2 bed dwellings. The applicant proposes studio, 1-, 2- and 3-bedroom apartments housing, therefore a mixture of these would be suitable for this development.

Vacant building credit: Government guidance and policy in planning practice guidance and the National Planning Policy Framework, notes the following on vacant building credit (VBC):

VBC is applicable resulting on the provision of no affordable housing units in this scheme.

KC Education - The scheme generates a total requirement of £291,469 towards primary school provision (Spring Grove J I & N School). No secondary education is required by this development.

KC Strategic Waste - No objections. No closed landfill sites within 500m of HD1 5NN, nor does our historic sieve maps.

\* According to the Environment Agency search website, there are no Active landfills within a 500m radius.

KC Business Team - The business team recognises the significant investment brought into developing this Huddersfield Gateway site and in bringing a listed building back into use. Therefore, support the application on the basis of the significant jobs to be created and would wish to also explore the opportunity for local plant, material, and labour during the construction phase.

## 9.0 MAIN ISSUES

- Principle of development
- Heritage Issues and Restoration of the Listed Building
- Residential amenity & Unit Size
- Ecology and trees
- Planning obligations and financial viability
- Phasing of the development
- Housing issues
- Highway issues
- Drainage issues
- Climate Change
- Representations

## 10.0 APPRAISAL

### Principle of development

- 10.1 Planning law requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
- 10.2 The Local Plan sets out a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum.
- 10.3 The site is allocated as a mixed-use site - Land North of Trinity Street, Huddersfield (Site Ref: MXS4) in the Kirklees Local Plan which was adopted in February 2019 as set out above. In planning policy terms, the site allocation within the Local Plan can be given full weight.
- 10.4 The southern section of the site previously benefitted from an outline planning permission (Ref: 2015/93827) for the demolition of existing buildings and erection of a food retail unit (A1) with associated site works, parking, access, and landscaping which was approved with conditions by the Council on the 27th of June 2016. This consent granted 2,470 sq. m (net sales area of 1424 sq. m) of Use Class A1 retail floorspace within a single unit, but this permission has now expired. The committee may consider this to be a material planning consideration. This previous retail scheme did not include the comprehensive redevelopment of the site or a programme of urgent works to the to the heritage buildings whereas the applicants scheme does, all be it without securing the conversion of the heritage buildings.
- 10.5 Members may recall Pre-application 2017/20041 that was presented to the Strategic Committee on 5th October 2017 to engage with members on the potential redevelopment of this site and obtain their views on the scale, form, and uses proposed. Committee comments were generally supportive of its redevelopment and the consequent regeneration benefits. However, they did wish to see the scheme with its scale respecting the existing listed buildings and the Edgerton Road Conservation Area. It should be noted that the scheme at pre-application stage was significantly different due to the inclusion of a building of 11 storeys in height, which incorporated the retail food store at ground level and primarily residential units above, on the southern element of the site.



- 10.6 When this application was originally received in 2018, the UDP formed the development plan for Kirklees and the site was located outside of the Town Centre boundary. Consequently, at that time the applicants undertook a Sequential Test and Impact Test in relation to the proposed retail as required for sites outside of Town Centres. However, the adoption of the Local Plan included this site as being within Huddersfield Town Centre where retail and office developments are acceptable in principle. Furthermore, given that permission has previously been granted for 2,470 sq. m of retail floorspace on the site and notwithstanding detailed assessment of the scheme (currently 2,824 sq. m A1 retail), the principle of development on the southern part of the site which proposes retail development is therefore considered to be acceptable.
- 10.7 Turning to the proposed residential development on the northern part of the site, incorporating the residential development in outline form (buildings 4 & 5 shown on the masterplan) on the upper site and the historic core containing the listed buildings (buildings 1, 2 & 3 shown on the masterplan), consideration needs to be given to the material considerations of the potential benefits that would accrue in terms of the partial regeneration of a key brownfield site and a significant level of investment and employment generation. These matters can be weighed by the decision maker against any identified harm to heritage assets from the demolition and construction of the buildings and the scale and massing required to accommodate 229 residential units.
- 10.8 It is recognised that there are benefits from providing a significant number of residential units into the Town Centre. Policies LP13, LP15 and LP17 of the KLP support town centres as places where people live. Policy LP15 of the KLP refers to residential uses within Town Centres and gives criteria to assess proposals against. This scheme is compliant with the criteria in terms of the residential unit's proposed in the wings of the primary listed building and further assessment will be undertaken at reserved matters stage when details are submitted for the northern element of the scheme that is currently in outline form. Policy LP17 of the KLP which refers to the Huddersfield Town Centre, identifies the centre to be the principal focus for high quality comparison retail goods within the district, supported by a range of leisure, tourism, office (including high quality grade A office space), and other main town centres uses. The opportunity that be secured by the restoration of the Grade 2\* listed building for high quality office accommodation in a highly accessible location should be recognised.
- 10.9 It is also recognised that in the applicant's planning statement, they have justified the development in terms of its sustainability criteria and particularly the economic benefits of the scheme as required in the NPPF. *The retail food store element associated with the extant permission was identified as providing up to 50 jobs. Employment opportunities will also be generated during the construction phase and where appropriate, local labour would be given the opportunity to be involved.* Employment opportunities would also be provided by the office unit from the converted Listed Building (Building 1 on the masterplan).

- 10.10 Furthermore, in support of the application the applicant has provided comments in supporting letter dated 27<sup>th</sup> October 2021 and diagram which are included within the Appendix to this report which can be considered by the Committee as material considerations. Officers support the potential benefits to the town centre and the regeneration of this key site to enhance the visual appearance, environment, and economy particularly in this part of the town centre.
- 10.11 The site is identified as one of two key development site opportunities to support capacity for growth within the town centre over the plan period 2013-2031.
- 10.12 The Kirklees Economic Strategy 2014-2020 set a priority to revitalise Huddersfield Town Centre with more cultural, leisure and independent retail attractions, with the aim of increasing pedestrian footfall and the vitality of the town centre. The development can assist in and will play a key role in achieving these aims. Taking into consideration the aforementioned local policies and the broad aims of revitalising town centres as a key focus for investment from national policy in the NPPF, the principle of development on the site is acceptable. However, the ability of the scheme to recognise substantial public benefit has been reduced given that the conversion of the heritage buildings would not be secured within the phasing plan of the S106 Agreement.

#### Quantum and density

- 10.13 To ensure efficient use of land, Local Plan Policy LP7 requires developments to achieve a net density of at least 35 dwellings per hectare, where appropriate, and having regard to the character of the area and the design of the scheme. Lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or to secure particular house types to meet local housing needs. Kirklees has a finite supply of land for the delivery of the 31,140 new homes required during the Local Plan period, and there is a need to ensure that allocated sites are efficiently used (having regard to all relevant planning considerations) to ensure the borough's housing delivery targets are met.
- 10.14 The number of apartment units proposed is 229 which is 197 on the northern part of the site and 32 within the wings of the primary listed building in the Historic Core. The indicative number of dwellings within the site allocation box of the Local Plan is 45 but this also includes an employment floorspace of 2,103 sq. m. The density of the development as a whole would be 93 dwellings per Ha. Officers acknowledge that the challenges of the site mean that the northern element that comes forward at reserved matters would be a high-density format. However, this is a town centre where some scale can be accommodated if sensitively designed.

#### Heritage Issues and Restoration of the Listed Building

- 10.15 The former Huddersfield Royal Infirmary site occupies a prominent position on the edge of Huddersfield town centre, within the setting of a large number of listed buildings and affecting three conservation areas. The original infirmary (F1) is listed Grade II\* and, together with the Grade II listed statue of Edward VII, provides an impressive centrepiece for a complex of structures which help to tell the story of the development of healthcare and the civic character of Huddersfield. These buildings are considered to form a priority site that is included in the national Heritage at Risk Register.

- 10.16 The three conservation areas are Greenhead Park, Town Centre, and Springwood Conservation Areas. The setting of Greenhead Park Conservation Area comprises residential development to the north and west of the site. To the east sits the Huddersfield Town Centre Conservation Area and includes St Georges Square and the railway station. Springwood Conservation Area includes properties on the western side of trinity street and approximately the northern half of the site.
- 10.17 Several listed buildings are located at close proximity to the site and therefore the proposals also have the potential to affect their setting.
- 10.18 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 and Conservation Areas or their setting or any features of special architectural or historic interest which they possess.
- 10.19 Paragraph 197 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."
- 10.20 Paragraph 199 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). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 10.21 Paragraph 201 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.

10.22 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 201 of the NPPF in terms of the assessment for proposals that would result in substantial harm or loss of a designated heritage asset. The policy sets out that in cases likely to result in substantial harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring substantial public benefits that clearly outweigh the harm, or all of the criteria listed a to d above are met.

10.23 A Heritage Statement has been prepared (by Woodhall Planning & Conservation) to support the application. The assessment identifies the heritage assets of the site and the potential impact upon the conservation areas and their setting. It appraises the historical significance of the blocks that are proposed to be demolished.

#### Re-use of Listed Buildings (Building 1,2&3 on Masterplan)

10.24 The proposal includes the conversion and restoration of the historic Grade II\* listed infirmary building (building 1 on masterplan) along with the two rear wings to the west (buildings 2 and 3 on masterplan) into high quality residential and office accommodation. However, the applicants have confirmed that the conversion will not be secured through a phasing plan within the Section 106 Agreement. The application will secure a programme of urgent works and that will be delivered in 2 parts and completed **within 9** months of commencing works on site.

10.25 The restoration of the heritage buildings beyond the programme of urgent works would carry significant public benefits, but as they are not included within the phasing plan and are not secured through this scheme, the benefits of the scheme do not outweigh the harm caused through demolition of heritage assets.

10.26 The committee should be aware that the applicants have submitted information in relation to the public benefits which they consider will still be achieved which is in the information and diagram within the Appendix of this report. Members of the committee may however decide that any or all of these benefits carry sufficient weight to outweigh the harm.

#### KC Conservation & Design Team

10.27 KC Heritage Officers have provided revised comments in light of the applicants' clarification of their position:

10.28 Previous comments on the proposed LBC and Hybrid Planning application were provided by the Conservation and Design Team dated 09 October 2020 and 10 February 2021. The comments were submitted in relation to the proposals for the planning application and listed building consent (under the same references)

10.29 The principle of redevelopment of the site was supported in previous comments, despite the evident 'harm' to the listed building which would result from the extensive demolition of the former infirmary buildings. The heritage impact of the proposal was supported on the understanding that the overall mixed-use development would facilitate the restoration and conversion of the 1831 infirmary building and its rear wings.

10.30 *The development proposal evolved through the application process but indicated that it would retain the most significant part of the C19th, grade-II\* listed infirmary, identified as Buildings F1, F2, F3 in the applicant's Heritage Statement (dated August 2020, Figure 1, page 6). However, prominent parts of the listed building, identified as buildings G, H1 and H2 in the Heritage Statement (dated August 2020, Figure 1, page 6) would be demolished to accommodate the new residential apartments at the northern end of the site. The late-C20th college buildings would also be cleared to enable the development of the proposed food-store at the southern end.*

*The current position*

10.31 *It is now understood that the applicants will not be progressing the development beyond the clearance of the college and former infirmary buildings (defined as buildings G, H1, H2 and J) to create a cleared development site, with disposal of the southern part of the site to accommodate the food retail site component. Following disposal of the southern part of the site to facilitate the food retail use, the applicants' intention is to market the cleared site and remaining infirmary buildings for development by others. Consequently, the proposed development does not provide certainty regarding either the: preservation of the retained grade-II\* listed building (Buildings F1, F2, F3), or the timely delivery of the residential development to a high architectural standard which would complement the character and appearance of the conservation area. Achievement of objectives 5a and 5b above is necessary to present the "clear and convincing justification" required by NPPF paragraph 200 to balance the extent of harm to the designated heritage assets.*

10.32 *The identified adverse heritage impacts must be demonstrably outweighed by the clear public benefits secured by the development. In particular, the satisfactory restoration and reuse of the retained listed building and the townscape of the conservation area must be unambiguously demonstrated given the proposed loss of historic fabric and the high density of the residential development. Current proposal only presents minor works to the listed building, and the scale, mass, and detailed design of the apartment complex at the northern end of the site remains illustrative in the current proposal. The impact on the character of the conservation area and the setting of adjacent listed buildings, is also unknown at this stage and remains a potential concern given that there is no design commitment for the proposed residential component of the overall development.*

10.33 *Historic England retains its concern that the proposal, "would result in harm to the grade II\* listed Infirmary building" and "likely harm to the Greenhead Park Conservation Area". However, the national heritage advisors concluded that the degree of harm caused by the development would be defined as 'less than substantial' and thus the adverse impact on the heritage assets should be balanced and outweighed by the delivery of clear public benefits (in accordance with NPPF paragraph 202). Consequently, Historic England emphasise that in determining the proposal it is essential that the Council is satisfied that the loss of the historic buildings and the proposed residential density are necessary to make the development viable and that the transformative development of the site can only be delivered in this manner. Therefore, in accordance with the requirements of the NPPF (paragraph 202) and the advice of Historic England, the Council's consideration of the*

*development's impact must be demonstrably based on whether the "public benefits" of the proposal are convincing and sufficient to justify the harm to the Grade II\* listed buildings and the conservation area.*

- 10.34 *The applicant's Heritage Statement acknowledges the high level of harm which would result from the development but states that this would be, "balanced against the substantial public benefits that would be achieved by the redevelopment of the Site". The stated public benefits outlined in the Heritage Statement and application included, "the repair and restoration of the principal parts of the Grade II\* listed building, the provision of a secure economic future for the Grade II\* listed building and the enhancement to the setting of the listed buildings and the conservation areas" (page 51). These benefits are not demonstrated in the proposal or committed to in the draft S.106 agreement.*
- 10.35 *It is understood that the extensive listed building repair and restoration works will be lengthy and require detailed specification, hence acceptance that the overall development would need to be carefully phased to facilitate its delivery. However, it will be evident that the listed building has continued to deteriorate since being presented to Committee in February 2021, when Buildings F1, F2, and F3 were already in poor condition. These parts of the building complex which are required to be retained now exhibit clear openings in the roof and signs of unauthorised access which will have accelerated the grade-II\* building's deterioration.*
- 10.36 *The minimum 'Urgent Repair Works' necessary to arrest the deterioration of the grade-II\* former infirmary (as reported to committee in February 2021) have not been implemented. The applicants were advised in February 2021 that the following works should be undertaken without further delay to simply arrest the listed building's deterioration and help minimise repair costs to the part of the site which they intended to retain.*
- a. Establish secure site compound around whole site and security monitoring. Secure the building. Both externally and via other buildings on the site as they are all interconnected. Carry out ongoing security checks.*
  - b. Erect protective boarding around the sensitive fabric of the key buildings, such as the portico columns and the listed sculpture.*
  - c. Make the roof weathertight – using temporary repairs if necessary, such as bitumen felt in parapet gutter and over hips and ridge. Undertaking temporary repairs to missing slates – new slates or felt repairs and clearing downpipes and gutters of debris and vegetation.*
  - d. Adequately ventilate the building, to include basements to prevent dry rot.*
  - e. Board broken windows (with through ventilation) to prevent unauthorised access and pigeons. Due to access difficulties it's unknown whether propping is required internally.*

- 10.37 *The above basic works fall under the category of “Urgent Works to preserve unoccupied listed buildings” as per Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990, commonly referred to as ‘S.54 Urgent Works’. Such works could be required to be undertaken by the serving of S.54 notice on the property owners by the Council, and if not implemented the Council could execute the works at its expense and recover the cost from the applicants under Section 55 of the 1990 Act.*
- 10.38 *The proposed S.54 Urgent Works would not bring the grade-II\* listed building back into active use and are not sufficient on their own to provide a “clear and convincing justification” for the extent of demolition proposed by the current proposals. Consequently, they would not provide ‘public benefits’ as they simply arrest the deterioration of the property owner’s heritage asset, temporarily protecting the listed building in the short-term until the full development commences, to help manage escalating fabric repair costs.*
- 10.39 *The implementation of S.54 Urgent Works would not normally require Planning Permission or Listed Building Consent so there should be no reason why a prudent developer would not implement them to protect the heritage fabric and the future investment in the building. Unfortunately, the applicants have resisted implementing the necessary works and challenged the definition of the scope of the S.54 Urgent Works, in particular the timing and scope of works to the roof. Consequently, the S.106 Agreement which would have included the implementation of these basic repairs has not been finalised and the building remains vulnerable and open to the elements.*
- 10.40 *It was understood that the proposed development would help deliver one of the objectives of the Huddersfield Blueprint (opportunity site 7) and address concerns at a priority site that is included in the national Heritage at Risk Register. The hybrid application was intended to allow a phased development with consideration given to the design and detailing of the proposed residential development on the northern end of the site at the reserved matters stage. This was to be delivered in parallel to the restoration and conversion of the listed building.*
- 10.41 *The Listed Building Consent and Hybrid Planning application forms part of a complicated proposed development package intended to secure the sustainable redevelopment of the whole former Infirmary and Kirklees College site. The successful delivery of the proposed development would offer an opportunity to conserve and re-use the listed building group as well as enhance a significant part of the designated conservation area, contributing to the strategic regeneration of this part of Huddersfield town centre.*
- 10.42 *Consequently, the principle of re-purposing the grade-II\* listed building for residential/office use, partly facilitated by the demolition of the less-significant former infirmary buildings and the construction of new-build residential apartments and the former Kirklees College buildings (as a retail outlet) would be supported if it can be demonstrated that the whole development package is deliverable.*
- 10.43 *Given the high-heritage status of the listed building, it is essential that any consented development package for the site delivers the conservation of the retained former infirmary buildings (buildings F1, F2, and F3) and that the rejuvenated listed building group is complemented by new-build*

*accommodation which demonstrates a high-quality of architectural expression and landscaping. This is essential to provide the necessary social and environmental benefits which would counter-balance the demolition of components of the listed building and the conservation and the transformation of the site.*

- 10.44 *It is now understood that the current proposals delay the phased implementation of any works to the retained listed building (including temporary fabric protection works), while concentrating on the clearance of the former college buildings (to facilitate the retail food store) and the creation of a 'development ready' cleared site for implementation by others.*

*C&H Team Conclusion*

- 10.45 *The clearance and redevelopment of the former college buildings is acknowledged as a positive. However, the apparent outcome of the current proposal would be the demolition of substantial parts of the grade-II\* listed building and continuing uncertainty of the future for the retained former infirmary buildings and the northern part of the site. The public benefits of the proposed development have, therefore, not been clearly demonstrated sufficient to address the requirements of NPPF Paragraph 202 or Local Plan Policy LP35.*
- 10.46 *It is, therefore, recommended that the applicants are advised to include a robust programme of temporary or Urgent Works as the basis to demonstrate their commitment to the delivery of their stated, "repair and restoration of the principal parts of the Grade II\* listed building, the provision of a secure economic future for the Grade II\* listed building and the enhancement to the setting of the listed buildings and the conservation areas".*
- 10.47 *As a minimum the principal parts of the Grade II\* listed building (i.e., buildings F1, F2 & F3) must be made weatherproof and watertight, prior to any commencement of demolition works. This would facilitate the necessary surveys and inspections required to determine the scope of repair works and establish a clear construction programme for the focus of the site.*
- 10.48 *Similarly, to secure the future of the retained listed building, the S106 Legal Agreement covering the site must demonstrably facilitate the delivery of the restoration and reuse of the former infirmary buildings by being tied to relevant stages of the construction of the new build apartments on the northern part of the site. This requires the imposition of triggers in the S.106 agreement to ensure that the restoration of the principal parts of the listed building (building F1, F2, and F3) to be secured and implemented as a single construction project in parallel to the new build apartments.*
- 10.49 *The concern is that without such commitment the site the retained part of the listed building would not be restored and brought back into use, thereby negating the claimed public benefits and the "clear and convincing justification" for either the required demolition or the new residential apartments.*
- 10.50 *Historic England previously advised that that they have no objections to the office or residential re-use of the Grade II\* listed building. The updated position of the applicants has required a formal consultation with Historic England, and this is included within paragraphs 10.36.*



- 10.51 A separate application (2018/92687) for Listed Building Consent was submitted to accompany the planning application. This relates only to the works to the Listed Building (including the demolition of those buildings and structures classed as curtilage buildings). If the committee resolve to support the officer recommendation the listed building application will be approved under delegation at the same time. Similarly, if the application is refused the listed building application will be refused under the scheme of delegation.

#### Statue of King Edward VII (Grade II listed)

- 10.52 This statue stands in the car park to the east of the original infirmary building. It consists of a bronze statue of the King in Garter Regalia on a granite plinth with bronze plaques of Peace, Sympathy, and Industry on three sides. The immediate setting of the statue of King Edward VII currently undermines the significance of this listed building. The surface parking, condition of surrounding buildings, and proximity of the large college buildings are all detrimental to its setting.
- 10.53 Officers sought amendments to the original scheme that secured a reduced level of surface car parking to the front of the primary listed building (building 1) and improved the area surrounding the statue so that that the attractive setting to the front of the Listed building and the statue could be enhanced and better appreciated with less visual clutter from car parking.

#### Demolition

- 10.54 The former college buildings (Blocks A to E as shown on the demolition plan) consist of 1970s tower blocks and previously used as a college campus. These buildings are heavily vandalised and have a negative impact on the immediate vicinity, and wider area including the nearby Conservation Areas. They adversely impact upon the setting of the retained listed building and indeed, completely obscure any view of the former infirmary (Building 1) from the south, southeast and southwest of the site. Officers consider that the demolition of this group will open views through the site towards the primary listed building within the historical core.
- 10.55 The buildings on the northern part of the site, (namely Blocks, H, G, J & K on the demolition plan) would result in the loss of some of the later phases of the hospital complex. The applicants state that their demolition is justified in part as these buildings have been altered, are currently vacant, and as a result of vandalism and fire, are in a poor condition. Due to their design and layout, these later blocks do not lend themselves to conversion for modern office or residential use.
- 10.56 Kirklees Council Conservation & Design officers did have concerns with the demolition of Building G. This building, which is listed as part of the infirmary complex, is considered to contribute to the significance and evolution of the site, with the two pavilions on the Portland Street elevation of this Art Deco building making a positive contribution to the character of the Greenhead Park / New North Road Conservation Area. The demolition of this building would cause less than substantial harm to the significance of the infirmary complex and character of the conservation area and this needs to be weighed against the public benefits of the proposal.

- 10.57 The applicants Viability Appraisal (VA) was assessed on behalf of Kirklees Council by Avison Young (AY) who produced an independent VA that concluded that the proposed demolition and density of new development at the northern end of the site is necessary to fund basic works to the 1831 infirmary building and attached wings. It states that without this level of work, the restoration of the listed building would be unviable.
- 10.58 Kirklees Council Conservation & Design officers advise that they can only support the level of demolition proposed should the public benefits associated with the restoration of the heritage buildings be secured. The clearance and redevelopment of the former college buildings is acknowledged as a positive, however, the apparent outcome of the current proposal would be the demolition of substantial parts of the grade-II\* listed building and continuing uncertainty of the future for the retained former infirmary buildings. Given that the restoration of the heritage buildings is not now to be secured, the less than substantial harm caused to heritage assets through demolition is not outweighed by public benefits of the proposed development and the scheme fails to meet requirements of NPPF Paragraph 202 or Local Plan Policy LP35.

#### Northern Site (Buildings 4 & 5 on masterplan)

- 10.59 Although the submitted design of Buildings 4 and 5 show limited detail and this gives some uncertainty at this outline stage, it will provide the opportunity for detailed design discussions at reserved matters stage, when consideration must be given to the NPPF paragraph 130 and 192 – 196 as well as LP17, LP24 and LP35 of the Kirklees Local Plan. This will allow the regeneration of the site to proceed while safeguarding Buildings 1, 2 and 3.
- 10.60 KC Conservation & Design officers raised concern that the indicative scale and location of the new-build apartments would have a significant impact on the character of their context within the Conservation Area and requested that the applicants demonstrate that the indicative quantum of new build (197 apartments proposed) is the minimum necessary to make the overall development viable. However, this has been justified through the viability process and the evidence contained within the Viability Appraisal. Consequently, the quantum proposed, is considered to be the minimum amount of development.

#### Historic England

- 10.61 Historic England were consulted given the clarification of the applicant's position on the scope of their public benefits commitment, which does not include securing of the conversion of the heritage buildings beyond completion of the urgent works. Historic England commented on 02/11/21 as follows:

#### ***Historic England Advice***

- 10.62 *We understand that the above applications are returning for consideration by your authority's Planning Committee. Our most recent advice is contained in our letter of 14 September 2020 in response to the entirety of the information submitted with the application. As we understand it, the scheme is largely unchanged from that time.*
- 10.63 *In considering whether to grant consent for the proposals, your authority needs to consider whether the public benefits of the proposal are sufficient*

*and securable to justify the harm to the Grade II\* listed buildings and the conservation area. If the scope of the project or the proposals for the listed buildings have changed, your authority may wish to consider whether this should be considered as a fresh application.*

- 10.64 *Please refer to our previous letter for our full advice, but excerpts are included below to outline our position.*

*Historic England Position on the Applications*

- 10.65 *The development principles outlined in the local plan site allocation for this site state that: "Development proposals will be required to retain and reuse the Grade II\* former Infirmary buildings. Any new buildings or structures should conserve those elements which contribute to the significance of the Listed Buildings on this site and the character of the Conservation Area."*
- 10.66 *We acknowledge the challenges of converting this site to a new use and welcome the many positive changes that have been made. We recognise the need for the proposal to be viable and therefore understand that the loss of some of these historic buildings may be necessary in order to achieve the repair and conversion of the grade II\* listed Infirmary and rear wings and improvements to the forecourt.*
- 10.67 *However, the degree of loss and the density of the proposed development to the north of the site, with its impact on to the conservation area and setting of listed buildings, are a concern.*
- 10.68 *We believe that there would be harm to the grade II\* listed Infirmary building and there is likely to be harm to the Greenhead Park Conservation Area. Although overall we consider that the level of harm caused will be less than substantial in NPPF terms, any harm requires appropriate justification and consequently, we ask that your authority is satisfied that the loss of historic buildings and proposed density are necessary to make the development viable and that this can only be delivered in this particular way.*
- 10.69 *When making this judgement, we ask you to consider the 'special regard' which must be paid to the desirability of preserving listed buildings or their settings as well as the desirability of preserving or enhancing the character or appearance of conservation areas. If your authority is minded to grant consent for the proposals you should consider how the public benefits of the scheme, including the repair and conversion of the listed building, can be secured as part of any consent granted*

**Recommendation**

- 10.70 *Historic England has concerns regarding the applications on heritage grounds.*
- 10.71 *We consider that the issues and safeguards outlined in our advice need to be addressed in order for the applications to meet the requirements of paragraphs 130, 197-202 and 206 of the National Planning Policy Framework.*
- 10.72 *In determining these applications you should bear in mind the statutory duty of sections 16(2) and 66(1) 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 and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.*

- 10.73 *In addition, section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise. Your authority should take these representations into account and seek amendments, safeguards, or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.*

Georgian Group

- 10.74 *The response dated 03/09/2020) from the Georgian Group does recognise and welcome the repair and reuse of the original c1831 former infirmary building. Their response is summarised in the concluding paragraph and is therefore interpreted as an objection and states:*
- 10.75 *The proposed works to the former hospital complex would collectively cause a considerable degree of harm to its significance, and to the character and significance of the surrounding conservation area. Parts of the proposed work including the proposed total demolition of the later nineteenth and early twentieth century hospital ranges are of a particularly controversial nature and have not been adequately justified. We would therefore urge the applicant to withdraw this application until such time as they can address the issues highlighted within this letter. If the applicant is unwilling to do so, then consent should be refused.*

Huddersfield Civic Society:

- 10.76 *The Huddersfield Civic Society have stated that they welcome the retention and conversion of those buildings marked Buildings 1, 2 and 3 on the submitted plans. It also echoes those concerns, articulated in the Society's original comments, concerning the proposed residential block (Building 5) but notes the applicant states, 'this drawing shows an indicative design only. Detailed planning permission is not sought for this building'. Should a detailed application on this part of the site be submitted it is essential that attention is paid to the relationship with buildings within the adjacent Conservation Area and particularly those along Portland Street. It may be appropriate for a planning condition to this effect to be incorporated into any approval granted on this initial phase of the site development. However, the Society wishes to state its strong objection to the elevational details of the proposed supermarket and related car parking. This occupies one of the most prominent sites within Huddersfield, adjacent to Castlegate (ring road) and Trinity Street, the latter providing the main access to and from the M62 motorway.*
- 10.77 *Over the past few years there have been a number of high quality developments fronting the ring road, including those on the university campus and Huddersfield Sports Centre which have complemented buildings of architectural and historic value such as St Paul's Church and Queensgate Market. Those buildings on the former Kirklees College site, which were constructed in the 1960/70 period, have, generally, been considered to be of poor architectural quality, particularly in relation to the former Infirmary,*

*adjacent Conservation Area and the prominence of the site. The proposed supermarket would appear to achieve even lower standards of design, particularly in relation to these features. It would, therefore, be a retrograde step for approval to be given to this element of the proposal, and contrary to objectives of the Council in promoting good design, on a site which leads to the Station Gateway, where a fundamental ambition within the Council's Blueprint is to enhance the heritage and commercial attractions of the town. Furthermore, this element of the application should, at the very least, undergo some major design revisions coupled with a far greater focus on materials, elevational detail, built form and landscaping, incorporating greenspace with tree planting. Finally, the Society view the introduction of the proposed supermarket, into an existing application, to be wholly inappropriate given no such element was included in the original application. There is little clarity regarding the 'revisions' and major conflicts between the (still undecided) Aug 2018 application on the council website and statements in latter documents. By accepting this change as a 'revision' to an existing application, the opportunity for members of the public to submit comments has been significantly curtailed from the time frame allowed in the event of a new application. As such, we strongly recommend this application be rejected and the applicant asked to resubmit a new application to ensure residents of Huddersfield are allowed the opportunity to express their views. As it stands any approval would be a retrograde step for the town and severely question the Council's commitment to its' own BluePrint and its ability to positively promote high standards of architecture and design.*

#### Conclusion on Heritage

- 10.78 Paragraph 199 of the Framework 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). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 10.79 Paragraph 200 of the NPPF clarifies that any harm to the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Paragraph 202 continues that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, as is the case here, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 10.80 It is also noted that Heritage officers advise that the demolition of building G will cause less than substantial harm to the significance of the infirmary complex and character of the conservation area.
- 10.81 Officers consider that the public benefits of the scheme would include the following:
- Programme of urgent works to grade 2\* listed building (buildings 1 ,2 &3) that is currently on the National Heritage at Risk Register.
  - Enhancement of the setting of the primary listed building and its wings through the extensive demolition.
  - Partial regeneration of a highly prominent derelict site within the Town Centre (Whole site other than the heritage buildings (buildings 1,2 &3)
  - Secures a significant level of investment and employment opportunities.

- Potential to deliver dwellings in the future in a sustainable location and within the Town Centre which when occupied assists with spend within the local economy and support retail units and town centre vitality and viability (but only if the whole site is developed)

10.82 The applicants have submitted information that is within the Appendix of this report and summarises the public benefits of the scheme given the applicants clarification of what is secured within the phasing plan. These details are the applicant's view of the public benefits of the proposal, and they may be considered to be material considerations by the decision maker.

10.83 In terms of weighing the less than substantial harm to the significance of the designated heritage assets against the public benefits of the proposal, including securing its optimum viable use, Officers consider the following:

10.84 It is recognised that the scheme would secure urgent works to the heritage buildings. However, such works are similar to those that can be secured under the "Urgent Works to preserve unoccupied listed buildings" as per Section 54 of the Planning (listed Buildings and Conservation Areas) Act 1990 where the site owner could be required to board up windows and secure the buildings, make the roof weathertight, ensure proper ventilation, clear the downpipes and gutters of debris all of which would assist in protecting the sensitive fabric of the key buildings. However, it should also be recognised that the applicants scheme requires the urgent works to be completed within 9 months of commencement of works on site. This timescale is an improvement on the previous offer at the time of the committee in November 2021, which was then a period of 18 months. Making the heritage buildings weathertight and waterproof **9 months** earlier will require funds at a stage in the development when the profits of the scheme have not been fully realised. This is beneficial given the very poor state of the listed buildings. Some additional weight can be applied to this improved offer by the applicants'; however, officers consider that this does not go far enough to outweigh the harm caused by the scheme. The applicants' scheme will not secure the conversion and reuse of the heritage assets whilst granting consent for a significant mixed- use development. Consequently, officers still consider that the move to complete the urgent works within 9 months can only be afforded limited weight as a result.

10.85 Partial regeneration of a highly prominent derelict site within the Town Centre (Southern part of site and demolition other than listed buildings) would be a significant benefit, with visual improvements of this derelict site initially from removal of the college buildings to the south, which would enhance this part of the town centre and its surrounding locality. Officers consider this should be afforded medium weight at most given that uncertainty will remain over the whole site delivery.

10.86 The potential for the provision of 229 dwellings would also weigh in favour of the proposal but undoubtedly is moderated by the failure of the scheme to secure anything beyond the delivery of the food store, demolition works and a programme of urgent works to the listed buildings. The economic and social benefits of a development in terms of the creation of jobs associated with the construction stage is positive but the benefits of increased footfall in the town centre cannot be given weight as uncertainty in delivery of the residential elements of the scheme are far from certain.

10.87 The Framework is clear that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. Grade II\* buildings are particularly important buildings of more than special interest; 5.8% of listed buildings are Grade II\*. Without a mechanism to secure the conversion of the heritage buildings to an advanced stage, the public benefits identified do not outweigh the harm identified by the demolition of heritage assets and the failure to restore them to a viable re-use. Consequently, the proposal is contrary to Policy LP35 Kirklees Local Plan and Paragraph 202 of the NPPF.

#### Residential Amenity & Unit Sizes

10.88 Local Plan Policy LP24 advises that good design should be at the core of all proposals. It states that development should provide good design by ensuring, amongst other matters, that they provide a high standard of amenity for future and neighbouring occupiers and also, that they are adaptable and able to respond to change and offer flexibility to meet changing requirements of the resident / user. As a consequence, matters such as maintaining appropriate distances between buildings, outside garden areas and also the provision of adequate living space are material planning considerations.

10.89 The applicants submitted a Noise Impact Assessment and Air Quality Assessment with the application. In terms of noise impact the retail part of the development on the southern parcel will generate noise that has the potential to affect the residential amenity of residents both within the development on parcels to the north of the site in outline form and the units within the listed buildings and in proximity to the development. Considerations are given to the operation of the site once each of the sections have been completed and also during the construction phase.

10.90 Although residential development would increase activity and movements to and from the site, it is not considered that neighbouring residents would be significantly impacted. The proposed residential use is not considered incompatible with existing surrounding uses.

10.92 A condition requiring the submission and approval of a Construction Management Plan (CMP) is proposed. The details submitted for a future discharge of condition would need to sufficiently address the potential amenity impacts of construction work at this site.

10.93 In terms of Air Quality, the site abuts the ring road and is adjacent to the Air Quality Management Area (AQMA). Considerations are given to both the living conditions of occupants of the proposed residential units and office use (within building 1 of the masterplan). Further details of the assessments undertaken will be reported in the update.

#### Unit sizes

10.94 The application proposes the following unit size and mix of apartments for the full application detailed for the conversion of the primary listed building (Buildings 1, 2 & 3):

- Studio
- 1 bed
- 2 bed

- 10.95 The detailed design of the units within the outline part of the site for buildings 4 and 5 would be submitted at Reserved Matters stage.
- 10.96 Overall, the mix is considered to be acceptable and would contribute towards creating a mixed and balanced community.
- 10.97 The sizes of the proposed residential units is also 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 living space.
- 10.98 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, since April 2021, all permitted development residential conversions were required to be NDSS-compliant.
- 10.99 The applicant has confirmed unit sizes within buildings 2 and 3. Assuming the lowest number of intended occupants, and assuming some of the studios would be provided with shower rooms instead of bathrooms, 30 of the 32 dwellings would be NDSS-compliant. This equates to 93.7% complying with NDSS. The proposed unit sizes are as follows (grey highlights the non-compliant units):

Building	Description	Number of units	Size (GIA) sqm	NDSS (GIA) sqm, lowest number of occupants
2	Studio	2	37.0	39 (37 with shower)
	Studio	1	37.6	39 (37 with shower)
	Studio	2	39.5	39 (37 with shower)
	1 bed apt	1	44.8	39 (37 with shower)
	1 bed apt	1	45.9	39 (37 with shower)
	1 bed apt	3	49.2	39 (37 with shower)
	2 bed apt	2	63.3	61
	2 bed apt	1	64.0	61
	2 bed apt	1	64.1	61
	2 bed apt	1	64.4	61
	2 bed apt	1	66.7	61
	2 bed apt	1	67.1	61
	2 bed apt	1	68.7	61
	2 bed apt	2	72.0	61
	<b>Total</b>	<b>20</b>		
3	1 bed apt	1	45.1	39 (37 with shower)
	1 bed apt	1	54.5	39 (37 with shower)
	2 bed apt	1	55.4	61
	2 bed apt	1	56.6	61



	2 bed apt	1	62.9	61
	2 bed apt	1	63.8	61
	2 bed apt	1	66.7	61
	2 bed apt	1	68.2	61
	2 bed apt	1	68.4	61
	2 bed apt	1	69.8	61
	2 bed apt	1	69.9	61
	2 bed apt	1	72.9	61
	<b>Total</b>	<b>12</b>		

10.100 The proposed unit sizes overall are considered acceptable, noting the policy position in relation to NDSS, as well as paragraph 018 of the “Housing: optional technical standards” section of the Government’s online Planning Practice Guidance (ref: 56-018-20150327).

### Ecology and Trees

10.101 An updated bat survey and walkover of the site was undertaken and submitted with the amended scheme received in 2020. This revealed minimal changes to the buildings and habitats on the site since the original surveys undertaken in 2017, and therefore with the application of mitigative measures, the risk to protected species is considered unlikely. With regard to the outline element of the scheme to the north only, surveys may require repeating on the buildings to the north of the site (G-K) at reserved matters stage to ensure the status of bats has not changed if the application is not submitted within 2 years from the date of the latest survey.

10.102 In accordance with Local Plan Policy LP30(ii) development is required to “minimise impact on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist”. The Council’s Ecologist raises no objection provided pre-commencement conditions are included to ensure compliance with Policy LP30 to include Net Gain.

### KC Trees

10.103 Arboricultural Report Surveys were undertaken and submitted to Kirklees Tree officers to assess. There are no objections to the proposals on the majority of the site subject to conditions.

10.104 With regards to the retail store element of the scheme, amended plans have been received showing that two trees (T38 and T41 Horse Chestnut) to the south of the food store are now to be retained rather than removed. They are of good size and form and would contribute to the overall amenity value and species retained on the site.

10.105 The KC Arboricultural officer has advised that the applicants have attempted to retain as many trees as possible on a difficult site with many constraints. The location of two trees on an embankment to the front of the store and close to retaining structures makes it difficult to accurately assess at this moment whether they can still be retained, once detailed structural assessments are made but this process could be undertaken by making a Non-Material Amendment application (Section 96a type application to Kirklees Council). The applicants did agree to attempt to retain them which is a preferred starting

position. It should also be recognised that amended landscaping plan (R-2377-1C landscape) includes enhanced planting within the car park area of proposed food store which is of benefit to the scheme both visually and from an ecology perspective. Details of the tree protection measures for the whole site will need to be secured as a condition in the form of an Arboricultural Method Statement to ensure compliance with policy LP33 of the Kirklees Local Plan.

#### Planning obligations and financial viability

10.106 The application before members has not amended or updated any details of the viability appraisal since the previous committee report 24<sup>th</sup> February 2021. Therefore, the details in the viability section of this report remain unchanged.

Under planning policies identified the scheme generates the following requirements:

#### *Affordable housing:*

10.107 Policy LP11 of the Kirklees Local Plan requires 20% of the dwellings on the site to be affordable. Based on a total of 229 units 46 dwellings would be required. However, Vacant Building Credit is applicable and due to the extensive buildings on site the calculation has removed the requirement to provide affordable units.

#### *Education:*

10.108 Policy LP49 of the Kirklees Local Plan provides for educational needs arising from new development. The scheme generates a total requirement of £291,469 towards primary school provision (Spring Grove J I & N School). No secondary education is required by this development.

#### *Open space:*

10.109 Policy LP63 of the Kirklees Local Plan relates to the provision of open space on new developments. The proposal showing a shortfall in Open Space provision of £373,578.

#### *Highways:*

10.110 An additional highway improvement scheme is also to be delivered in the direct vicinity of the proposed development to improve pedestrian and cycle links to the town centre, this will be conditioned and delivered by an agreed section 278. (Accepted that delivery will depend on viability of the scheme)

10.111 An upgrade to the existing lighting is requested as part of this development and will be conditioned accordingly. (Accepted that delivery will depend on viability of the scheme)

#### *Financial Viability:*

10.112 The applicant has submitted a financial viability appraisal (VA) which has been independently assessed on behalf of Kirklees Council, therefore for the purposes of the report is referred to as AY.

10.113 Without a reasonable profit there is no commercial justification to a developer investing money into a site. For the purpose of the assessment a target profit equal to 20% on cost (which equates to 16.67% if profit is measured in GDV) is considered to be a reasonable profit for the scheme proposed.

10.114 The key differences in the Viability Appraisals are as follows:

*Sales Values:*

10.115 The applicant's VA assumes a sales value of £250 per sq. ft on the new build residential element and £240 per sq. ft on the residential conversion. Whereas AY VA assumes sales values of £250 per sq. ft across the whole scheme.

*Development Value:*

10.116 The Applicant has not included any cost or value associated with the office conversion of Building 1. This is because they believe the office conversion to be unviable. AY have included the office development to demonstrate to committee the non-viable conclusion of this element of the scheme.

*Build Costs:*

10.117 The applicants assumed build cost of £140psf for the new build residential development and £145psf for the conversion elements but not included any costs other than making the building wind and watertight for the refurbished office conversion. AY have adopted £122.54psf for the new build element (external works) as the scheme will need to be designed in a sensitive manner in view of the listed buildings on the site, £113.53psf for the residential conversion and £90.30psf for the office conversion

*Contingency:*

10.118 The applicant has made an allowance of 2.5% on construction costs in their appraisal for a contingency. AY have assumed a contingency of 5% on construction costs to be normally applicable for brownfield/previously developed sites.

*Project fees:*

10.119 The applicant has included project fees at 6.85% on build costs whereas AY have applied 8%.

*Land Value:*

10.120 Applicant included a land value of £2,350,000. AY have included a land cost of £1,100,000. However, it is understood that £250,000 of fire damage works, as well as c. £750,000 of demolition works were quantified at the time of purchase. Valuation colleagues were in contact with the applicants Viability Consultants a couple of years ago about the application site when valuing another Kirklees College site. It was explained that there was c. £1,000,000 worth of abnormalities associated with the site at the time. The price paid for the site should reflect these abnormal costs. Therefore, AY deducted the c. £1,000,000 from the £2,100,000 purchase price to get to £1,100,000 and then included the £1,000,000 abnormal costs in our appraisal.

10.121 The Applicant's VA did not include any cost or value related to the office conversion, since they believed this element of the scheme is fundamentally unviable. As a result, no funds have been allocated to undertake the conversion works other than to make the building wind and water-tight at a maximum cost of £500,000. AY included the office element of the scheme in the appraisals to determine the overall viability of the scheme. AY appraisal and scenario 1 shows that the Applicant's VA is correct in that the office element of the scheme does not generate a value more than the costs. In the sensitivity analysis, when the office element has been removed it is then included the £500,000 works in the appraisal to ensure the cost is accounted for.

10.122 The aim of our assessment is to reflect industry benchmarks in development management viability. The Council's VA ignored the nature of the applicant and disregarded all benefits or disbenefits that are unique to the applicant. On this basis, the Council have removed circa £2,250,000 of costs that are considered to be unique to the Applicant. Therefore, the Applicants viability is substantially worse than our assessment shows.

10.123 The Council's assessors agreed with the applicants on the following issues:

- Policies would require the scheme to provide S106 obligations for education (£291,469), Public Open Space (£50,000) and a sustainable travel contribution (£60,000) amounting to £401,469

10.124 The VA Assessment demonstrates that with the inclusion of the S.106 obligations, the scheme generates a residual profit of £3,719,842, equating to approximately 9.67% profit on cost.

10.125 It should be noted that the figure for POS contribution has been revised to £373,535. This does not have a bearing on the viability conclusions or officer recommendation.

#### Sensitivity Testing

10.126 As part of the viability assessment a number of scenario's are explored to test:

- 1) Considered the viability of the scheme on the basis that the office conversion is simply made wind and watertight at a cost of £500,000. Under this scenario the profit generated by the scheme increases to 10.56% on cost. Whilst the viability is improved the profit generated still falls short of the 20% on cost which is deemed to be a reasonable return for the developer.
- 2) Considered the S106 requirements and builds on sensitivity one and removes the S106 obligations in addition to reducing the costs of the office conversion to £500,000 which would simply put the building into a weather tight state. Under this scenario the profit increases to 12.21% on cost (which equates to 11.74% on GDV) which is well below the threshold of 15-20% on GDV advised within the NPPF. Even under this scenario the profit on costs still falls short of the 20% profit on costs which is a advisable target.
- 3) Officers requested that the VA considered the possibility of Building 1 (the main listed building) for residential conversion rather than an office use. However, based upon a crude calculation and without accounting for additional costs on top such as professional fees (8% of build costs),

contingency (3% of build costs AY assumed 5% in the appraisal) and finance (varies), although the level of deficit was reduced it was still - £250,764 in deficit.

#### Conclusion on Viability:

- 10.127 The VA demonstrated the scheme (with no S106 contributions the development is viable but unable to generate a return (profit) which is commensurate with a reasonable return for a scheme of this nature (i.e. 20% on cost). Whilst removing the S106 obligations will in no way ensure a profit which commensurate with a scheme of this nature it may actually mean the applicant can broadly break even and deliver the scheme.
- 10.128 An overage clause was to be included within the S106 in the event that the conversion costs (buildings 1,2 &3) ended up being significantly less than the applicant anticipated and in turn yields a substantial uplift in the level of developer profit. In this event these funds would go to provide the planning obligations that cannot be secured at this time. The applicants have confirmed that the draft S106 Agreement includes, the agreement to pay Overage to the council over and above the initial £400,000 contribution (programme of urgent works on heritage buildings 1,2 and 3) and is capped at a further £301,000 in the event that the scheme made greater than a 15% profit on cost (on a 50/50 basis).

#### Phasing

- 10.129 KC heritage officers have assessed the external condition of the primary listed building (buildings 1,2&3 as shown on the masterplan) and it is evident that the listed building has continued to deteriorate since being presented to Committee in February 2021, when Buildings F1, F2, and F3 were already in poor condition. These parts of the building complex which are required to be retained now exhibit clear openings in the roof and signs of unauthorised access which will have accelerated the grade-II\* building's deterioration. Officers have again identified a number of urgent works (listed a-e) in paragraph 10.33 of this report that are required to address the deterioration of the heritage buildings on the site.
- 10.130 Officers consider that significant public benefits could have been secured through the re-use of the primary listed buildings on the site (as detailed in paragraph 10.23) of the Heritage section of the report. However, the applicants have clarified that their conversion will not be secured through the Section 106 agreement. It is essential that in granting permission for the wider site redevelopment that the retained heritage assets will be protected from further deterioration. Whilst the scheme will secure a programme of urgent works to prevent further deterioration it will not secure the reuse and restoration of the heritage buildings to an advanced stage. Officers attempted to secure the conversion of the listed buildings to an advanced stage, such as to First Fix stage of building regulations requirements or its equivalent. However, the applicants cannot agree to this given the issues surrounding the issue of viability. Whilst the uses of the heritage buildings and the works contained within the scheme would be approved, they would not be secured through a phasing plan attached to this planning permission.

10.131 The condition of the internal fabric of buildings 1, 2 & 3 is at this stage unquantified. The external condition has been assessed recently by officer site visit and the condition previously reported prior to committee February 2021 has further deteriorated but is included below for members information and consistency with the previous committee report:

*Building 1*

- All visible lead missing from the roof, including ridge and hips, chimney flashings.
- External damp staining to the masonry suggesting parapet gutter lead also stripped.
- Portico roof leaking badly.
- Limited ventilation – needs to be addressed.
- Vegetation growth on roof.

*Buildings 2 and 3*

- Open and broken windows
- Lead stripped from roof
- Ground floor window boarding not seen but is it ventilated?
- Vegetation growth on roof and in gutters.
- Site security is poor enabling access across the buildings (hoardings pulled away and broken and accessible windows, heras fencing collapsed, rubbish used to access and climb walls).

10.132 It should be noted that due to the inter-connected nature of the interior access is available throughout. Heritage Officers identified the Urgent Works are required and should be undertaken without further delay. Protracted negotiations between the applicants and officers on the content of the Programme of Urgent Works and their timing failed to reach full agreement, however, if the committee weigh in favour of the scheme the main parts of the Programme of Urgent Works that is to be included and is drafted within the S106 document is included below.

Applicant programme of urgent works

10.133 The applicant has confirmed that the Owner shall submit both stages of Urgent Repair Works for the Council's written approval no later than 8 weeks following the date of the Planning Permission. Completion of Stages 1 and 2 Urgent Repair Works to the Listed Buildings will follow within 9 months of the date of approval of both stages. The completion timeframe of the programme of urgent works has therefore been brought forward from 18 months to within 9 months. The applicants have confirmed that the programme of urgent works will be brought in as an extension of the initial Enabling Works package.

10.134 The creation of a development platform for Lidl involves a 6-month Enabling Works programme at the cost of c. £1.5m that includes the extensive demolition and regrading of the site. However, the applicants offer now adds the full £400,000 S.106 contribution to that Enabling Works programme such that it is delivered as part of a single contract which is committed on Day 1 and completed within 9 months. Therefore, from the moment the site is taken over by contractors it will be secured and delivered with the programme of urgent works to the listed buildings as part of the overall package.

10.135 The email from P. Fox dated 10.02.22 states as follows:

*Our proposal quite clearly states that the proposal we have made is to bring the works forward to completion within 9 months, not either the 12 months or 18 months referred to. More importantly it clearly expresses that those works are not time-deferred and that they are in fact to be brought in as an extension of the initial Enabling Works package.*

*As we have explained previously, the need to create a development platform for Lidl involved a 6-month Enabling Works programme at the cost of c. £1.5m to include the extensive demolition and site regrading, and we have now offered and proposed to add the full £400,000 s.106 contribution to that Enabling Works programme such that it is delivered as part of a single contract which is committed on Day 1 and is likely to have a 9-month project life.*

*The important point to stress to Members is that from the moment the site is taken over by contractors it will be fully secured and then delivered back with repair works/improvement works, etc. to the listed buildings as part of the overall package.*

10.136 Officers acknowledge that the applicants' updated offer is an improvement towards securing the future of the heritage buildings which may attract modest weight to the improved timescale, however this still falls short of constituting significant public benefits that the conversion of the heritage buildings to an advanced stage would attract. Another point to note is that the £400,000 is less than the total of £401,000 previously proposed when the application was presented to committee in November 2021.

The details of both stages are unchanged from the applicants' scheme presented to committee in November 2021 and is shown below:

**Stage 1** a detailed and fully costed scheme for the carrying out of the Stage 1 Urgent Repair Works provided always that the reasonable costs of carrying out the Stage 1 Urgent Repair Works shall not be required to exceed the sum of £100,000.00 (one hundred thousand pounds).

- a) the establishing of a secure site compound around the whole of the Heritage Buildings, the erecting of protective boarding around all sensitive fabric (such as the portico columns and the statue of King Edward VII), and the provision of ongoing security monitoring.
- b) installing ventilation measures to the Heritage Buildings (including basements) to prevent dry rot outbreaks.
- c) the repairing or boarding up (with through ventilation) of all windows so as to prevent access (including by birds); and
- d) works to clear the downpipes and gutters of Building 1 of debris and vegetation.

The Owner shall procure that the Stage 1 Urgent Repair Works are completed in accordance with the approved Stage 1 Urgent Repair Works Scheme.

10.137 **Stage 2** the second stage of urgent works necessary to arrest the deterioration in the fabric of the Heritage Buildings which shall comprise (unless otherwise agreed in writing between the Owner and the Council):

- a) works to make the roof of Building 1, Building 2, and Building 3 weathertight and waterproof through temporary repairs to vulnerable areas including parapet gutter and over hips and ridges.
- b) works to Clear downpipes and gutters of Building 2 and Building 3 of debris and vegetation.

The Owner shall procure that the Stage 2 Urgent Repair Works are completed in accordance with the approved Stage 2 Urgent Repair Works Scheme whereby phase 1 and 2 will be completed before **9 calendar months** following the date of approval of both the Stage 1 Urgent Repair Works Scheme and the Stage 2 Urgent Repair Works Scheme.

10.138 It should be noted that Kirklees Heritage Officers have commented on the legal requirement of works under category of "Urgent Works to preserve unoccupied listed buildings" as per Section 54 of the Planning (listed Buildings and Conservation Areas) Act 1990, commonly referred to as 'S.54 Urgent Works'. The works identified in the Heritage Officer's response at paragraph 10.34 could be required to be undertaken by the serving of S.54 notice on the property owners by the Council, and if not implemented the Council could execute the works at its expense and recover the cost from the applicants under Section 55 of the 1990 Act.

#### Housing issues

10.139 Kirklees Strategic Housing Market Assessment (SHMA) identifies that there is significant need for affordable 3+ bedroom homes in Huddersfield South, along with a lesser need for 1-2 bed roomed properties. There is an additional housing need in the area, specifically for older people. Rates of home ownership are low compared to other areas within Kirklees

10.140 There is significant demand for affordable 3+ bedroom homes in the area, along with demand for 1 and 2 bed dwellings. The applicant proposes studio, 1, 2 therefore a mixture of these would be suitable for this development.

10.141 Under the National Planning Practice Guidance (NPPG) 'To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount- equivalent to the existing gross floor-space of the existing buildings through Vacant Building Credit (VBC).

VBC is applicable to this scheme resulting in the removal of all the affordable housing requirements in this scheme.

The provision of 229 units would contribute towards the Council's housing delivery targets as set out in the Local Plan.

#### Highway issues

10.142 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed



effectively and safely by all users. The policy also states that new development will normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.

10.143 Paragraph 108 of the National Planning Policy Framework states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 109 of the National Planning Policy Framework adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe

The revised scheme (August 2020) comprises as follows:

Full Application (Buildings 1, 2, 3 & 6)

- A1 Shops – 1,998sqm Food store.
- B1 Business – 1,866sqm Office; and
- C3 Dwelling Houses – 32 Apartments.

Outline Application (Buildings 4 & 5)

- B1 Business – Up to 15,004 Offices; or
- C3 Dwelling Houses - Up to 197 Apartments.

#### *Traffic Generation*

10.144 The application is supported by a Framework Travel Plan and a revised Transport Assessment and Framework Travel Plan Dated July 2020 (Rev 2) prepared by Optima Intelligent Highway Solutions. The submitted Transport Statement assesses the traffic impact of a development of various scenarios in trip generation terms.

10.145 The development as a whole is expected to generate a total of 269 two- way vehicular movements in the AM peak and 309 two- way vehicular movements in PM peak respectively. Highways Development Management considers the trip rates utilised to be acceptable in this respect.

#### *Site access*

10.146 Access/egress to the site is to be taken via four points the proposed food store via Trinity Street with egress for HGV's taken via Portland Street and the residential/office element will take access/egress via Portland Street.

#### *Parking provision*

10.147 The total parking provision for the development is 255 parking spaces, of which 127 are proposed for the A1 food store. This leaves 128 spaces for the remainder of the development, given the sites context and location (Town Centre), along with proposed cycle parking is considered acceptable in this

respect. Whilst it's acknowledged a framework Travel Plan has been submitted, a full Travel Plan will be required to ensure sustainable travel measures are provided, this will be dealt with via suitable condition. Parking figures taken from Transport Assessment.

- 10.148 An additional highway improvement scheme is also to be delivered in the direct vicinity of the proposed development to improve pedestrian and cycle links to the town centre, would be conditioned and delivered by an agreed section 278. (This would require a financial contribution and the scheme has been subject to Viability appraisal as reported in the viability section of the report).

#### *Servicing/refuse*

- 10.149 An indicative arrangement for the service vehicle to the food store has been provided, no further information is provided for the refuse storage and collection for the remainder of the development, this will be conditioned accordingly.

#### *Safety audit*

- 10.150 A stage 1 safety audit and designers' response has previously been requested, as this has not been provided a suitable condition to cover the proposed highway works and access arrangements onto the highway is required.

#### *Subway improvements*

- 10.151 Concerns are raised regarding pedestrian safety in the existing underpass connecting the development to the town centre, an upgrade to the existing lighting is requested as part of this development and would be conditioned. (This would require a financial contribution and the scheme has been subject to Viability appraisal reported in the viability assessment).

Overall, the proposal is considered acceptable subject to relevant conditions.

#### Drainage issues

- 10.152 National Planning Policy Framework paragraph 155 states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. On the basis that the site lies in Flood Zone 1 (lowest risk of flooding from rivers or the sea), a sequential test is not required in this case. The site was larger than 1 Hectare and therefore a Flood Risk Assessment (FRA) and submitted that considered the risk of flooding

The National Planning Practice Guidance (NPPG) states that the aim of a drainage scheme should be to discharge run-off as high up the hierarchy as practicable:

- 1 – into the ground (infiltration)
- 2 – to a surface water body

3 – to a surface water sewer, highway drain, or another drainage system

4 – to a combined sewer

10.153 Ground conditions at the site mean that soakaways are not considered a feasible drainage option for the disposal of surface water. The existing site drains to the public combined sewer system and Yorkshire Water has confirmed that the proposed development can discharge to the public sewer system at the 1 in 1 year rate less 30% subject to provision of detailed calculations and drainage connectivity survey. Flood risk to the proposed development from all sources is low, with the exception of localised surface water overland flows.

10.154 Yorkshire Water has confirmed that foul flows can connect to the existing combined sewer around the site.

10.155 The Lead Local Flood Authority (LLFA) support the development proposed. Conditions will require details to be submitted of scheme detailing finalised foul, surface water and land drainage, intrusive investigation into the possible enclosed watercourse inside the southern boundary, surface water discharge rates, interceptors and prevention methods of preventing contaminated drainage. As the scheme would not require attenuation infrastructure on site, the arrangements for the future maintenance and management of drainage infrastructure within the site is not considered to be required. Should the committee grant planning permission the updated S106 agreement would not include a maintenance contribution. The proposal accords with Local Plan policies LP27, LP28 and chapter 14 of the National Planning Policy Framework with regard to its potential impact on local flood risk and drainage.

### Climate Change

10.156 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.

10.157 The proposal involves will recycling of a brownfield site and this regard represents an efficient use of land and resources. The site is at close proximity to key transport hubs and in terms of location the site is sustainable. The re-use of the listed buildings would secure a significant saving of embodied energy. The provision of electric vehicle charging points will be secured by condition which will help to mitigate the impact of this development on climate change. Suitable cycle storage facilities are also proposed, and areas of landscaping will be enhanced with planting as well as the retention of existing trees where possible.

### Representations

10.158 -Area is of significant importance to Huddersfield

- proposed new building elevations do not in any way respond to the 'Infirmery' the one listed building the developers are proposing to leave standing.

-the site does need to be developed but for such an important and visible area of Huddersfield an increased effort is required from this developer in respect of his proposed facade designs

**Officer response:** The site is adjacent to the ring road, is very prominent. It is important that the sites redevelopment enhances the area and balances the site's potential whilst being an appropriate scale given the heritage assets upon and adjacent to the site. The outline part of the site to the North does not include details of appearance. The visual material submitted with the application is for indicative purposes only.

-profound impact the setting of the listed Infirmery building, which, as a Grade 2\* building is considered of regional importance. Massing, articulation, and fenestration, particularly those adjacent to the Infirmery, fail to reflect the architectural quality of the listed building and the town's distinctive architectural quality

**Officer response** - Original comments from Huddersfield Civic Society have been updated with the revised scheme in Aug 2020. These are addressed in the Heritage section of the report

2020 - Revised Scheme:

-How happy I am to hear this and sincerely hope this application is successful.

-After 5/6 years and numerous callouts of the emergency services – both Police and Fire

-Site is a complete eyesore for visitors to this historic town putting Huddersfield in a very poor light indeed.

-The property is being used by many of the homeless community as a public convenience – and this I see on a daily basis

**Officer response-** The assessment of the scheme has recognised the impacts that the current condition of the derelict buildings is having upon the area and the social issues that are involved in developing this site.

-Huddersfield Civic Society- welcomes retention and conversion of those buildings marked Buildings 1,2 and 3 on the submitted plan

-Notes the applicant states, this drawing shows an indicative design only

-Should a detailed application on this part of the site be submitted it is essential that attention is paid to the relationship with buildings within the adjacent Conservation Area and particularly those along Portland Street

-Strong objection to the elevational details of the proposed supermarket and related car parking and would appear to achieve even lower standards of design than existing college buildings

-contrary to objectives of the Council in promoting good design, on a site which leads to the Station Gateway, where a fundamental ambition within the Council's Blueprint is to enhance the heritage and commercial attractions of the town

-greater focus on materials, elevational detail, built form and landscaping, incorporating greenspace with tree planting.

-introduction of the proposed supermarket, into an existing application, to be wholly inappropriate given no such element was included in the original application.

-By accepting the changes as a revision, the opportunity for members of the public to submit comments has been reduced from the time frame allowed

**Officer response:** The hybrid application is supported by a viability appraisal that demonstrates the very challenging nature of developing this site and preserving through adaptation and use its key heritage assets. It is considered that through the course of the application the scheme has evolved from one at significantly greater scale and impact to one more favourable, but in any case fails to provide sufficient public benefits to outweigh the identified harm.

## 11.0 CONCLUSION

11.1 There are a number of significant planning issues associated with this application, not least heritage assets and the viability of the site and development.

11.2 The Grade II\* status of the primary listed building means that it is in the top 8.3% of listed buildings in England. The buildings are however in poor condition and in need of urgent repair works to address its deterioration.

11.3 The application site is a highly prominent brownfield site allocated for mixed-use development within the Kirklees Local Plan under ref MXS4 for housing, retail and/or leisure uses and the principle of residential and retail and office development at this site is considered acceptable. As decision makers the committee members may consider material considerations such as the partial regeneration of the site could outweigh the identified policies or guidance relating to development involving heritage assets. However, officers advise that in the absence of a phasing plan that secures the conversion of the listed buildings to an advanced stage, the development fails to provide sufficient public benefits to outweigh the less than substantial harm caused by the scheme. The inability to secure the re-use of the Grade II\* heritage buildings would fail to comply with Policies LP35 of the Kirklees Local Plan as well as Paragraph 202 and Chapters 2, 4, 7 and 16 of the National Planning Policy Framework. The application is recommended for refusal and confirmation requested from committee that officers will issue an Urgent Works Notice (UWN) to preserve un-occupied listed buildings (Buildings 1,2, and 3 on the masterplan) under Section 54 of the Planning (listed Buildings and Conservation Areas) Act 1990, to require works listed a)-g) in paragraph 10.34 of this report to be completed and issued on the landowner as required.

- 11.4 The National Planning Policy Framework has introduced a presumption in favour of sustainable development. The policies set out in the National Planning Policy Framework taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.5 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would not constitute sustainable development and is therefore recommended for refusal.

**Background Papers:**

Application and history files.

Website link to be inserted here

[Planning application details link](#)

Certificate of Ownership – Notice served on/ or Certificate A signed:

## Appendix:

### Appendix 1 Applicant Letter

The applicants submitted comments to the council regarding the issue of public viability in a letter dated 27<sup>th</sup> October 2021. The main content of which is included below:

*It is hoped we are going to be able to move forward side by side and represent the application to committee in November, and in that spirit, we have pulled together a document summarising the 'benefits' of the scheme we are presenting.*

#### Overview of position

- *The landowner is of the view that the members concerns expressed at committee centred largely on the elevations and look of the Lidl store. I am pleased to confirm that through dialogue and redesign we have satisfied all of the offices concerns around materials, elevations, signage, windows and landscaping (new CGI to be prepared).*
- *As you are aware, the applicant has always maintained that the sale of the first phase to Lidl and subsequent sale of the second phase of the new build residential / retirement apartments would 'enable' a combined maximum contribution of £400,000 towards ensuring the listed building and wings were shored up and made watertight to avoid further deterioration. This is predicated on making a 0% profit and in support, the Avison Young report suggested this was unviable.*

*This 'urgent works / repair' investment was proposed to facilitate the listed building phase being formally presented as part of a high-quality development and not, a site that currently detracts from the area. The applicant continues to pursue grant support off its own back to assist and has submitted a full business case to the West Yorkshire Combined Authority (WYCA) for Brownfield Housing Funding (BHF).*

- *The initial feedback from WYCA is that the business case is a 'quality submission'. However, through the clarification question process, Cushman and Wakefield have highlighted that even with the grant funding available, the scheme still would not meet typical profit expectations. This mirrors the advice in the Avison Young viability report.*
- *By committing £400,000 towards the listed building and wings, Trinity One LLP are over providing based on professional advice procured independently by both Kirklees MBC and WYCA. If the*

*applicant can secure a consent, it will enable them to instruct the enabling works contractor at a cost of £1.65 million as well as secure the Lidl disposal totalling £3 million which generates the funds to be re-invested in the site.*

- Build cost inflation, supply chain challenges and labour supply issues have also meant the cost of the enabling works has spiralled over the last 12 months, but we now have a fixed price to the end of 2021. There is still a need to pin down infrastructure / power costs given ongoing energy challenges. This allied with market uncertainty as a function of Covid-19, and reduced bank funding availability, have meant that attracting pre-let's has been impossible. Occupiers now want to have certainty of a scheme coming forward on site, hence the need to commit to demolition and clearance.*

*As requested, below we set out the benefits of the proposed investment in the project. For ease of reference, we also enclose a more simplified and visual summary of the Trinity West project, adapted from one that was included in our business case submission to WYCA.*

### *Economic Benefits*

*The economic benefits of the scheme can be split in two (1) construction (i.e. temporary) and (2) operation (i.e. permanent).*

#### *Construction*

*The proposed development will be a significant construction project, which will generate turnover and temporary employment for construction firms and related trades. The total construction costs of the proposed development will be around £43 million plus the build cost incurred by Lidl. The work will be over a c. 36-month build period and will create an estimated 222 jobs directly.*

*Construction activity, due to its heavy reliance on an extended and varied supply chain, has significant positive impacts that go well beyond the on-site jobs created and the capital expenditure invested in the proposed development. There would also be an estimated 177 indirect jobs created because of the construction activity.*

#### *Operation*

*Once Lidl have completed their multi-million-pound investment, there will be an estimated 40 jobs created at Lidl, with a range of skill levels from sales assistances to deputy manager level. Lidl is an equal opportunities employer and jobs will be offered across a variety of socio-economic*



*groups which assists in creating inclusive societies. We discuss the social benefits in more detail shortly.*

*However, there are more economic benefits once the scheme is complete:*

- The Lidl store will provide a discount alternative to other supermarkets and result in a clawback of convenience and comparison spend to the area,*
- Wages paid by Lidl are likely to be re-invested in the local economy and in the town centre,*
- Lidl will pay business rates on their property and this income can be re-invested by the Council, and*
- An increase in the number of people living close to the town centre will drive footfall and spend, stimulating economic growth and strengthening the local economy.*

*The demand for local labour arising from the construction programme will primarily depend on the lead contractors appointed who are likely to have their own network of established subcontractors and labourers. However, as part of our grant application to WYCA, we have had to set out how we will seek to create social value through procurement.*

*Examples how this could be achieved are:*

- Asking questions on whether suppliers pay real living wage and evaluate the impact on costs should it be applied as a condition of contract,*
- Set targets for a proportion spend to be on Small Medium sized Enterprises and local organisations,*
- Set targets for the number of training opportunities provided,*
- Evaluate tenders against environmental impact in terms of waste reduction and carbon emissions,*
- Ensure policies comply with principles of CIPS Ethical Code, and*
- Ask companies to provide their policies on equality, diversity, and inclusion.*

*Once complete, the project will provide up to 244 residential dwellings and a mix of studio, 1 and 2 bed apartments with potentially some 3-beds subject to the reserved matters application on phase 2. There is a housing crisis at a national, regional, and local level. In Kirklees, housing delivery is below expected levels and central government asked the Council to prepare an action plan in January 2021 to explore how barriers to housing delivery will be addressed. An issue identified in the Action Plan is the under delivery of brownfield land. There is an opportunity to start showing how the Council is addressing this issue and delivering much needed housing for the local community. In addition to diversifying the housing stock, this housing will generate Council Tax revenue that can be re-invested in the local community.*

*All elements of the mixed-use scheme will contribute towards reducing social exclusion and improving quality of life and general health and well-being through:*

- *The provision of employment opportunities,*
- *Creating housing opportunities,*
- *Delivering a high-quality and inclusive built environment which is well lit and improves natural surveillance (in particular, the enhancements to the pedestrian route along the southern boundary that link with the Trinity Street Access Project), and*
- *Providing services in a highly sustainable location that are accessible to pedestrians and those using public transport*

### Environmental Benefits

*The site is in a highly sustainable location as identified in its Local Plan status as a key mixed-use allocation (MSX4). It is currently an eyesore and negatively detracts from the environment and town centre.*

*Redevelopment of the site will deliver on one of the core principles of the NPPF – the re-use of urban land. The scheme will create an attractive landscape with substantial new tree planting as well as opening views to the listed building and its wings. The scheme will significantly improve the environmental perception of this key western gateway site.*

*The sustainable location of the site means residents will have direct and easy access to modes of transport other than the car. On-site in the listed building element, there will be 52 cycle parking spaces, a provision of over 1 per dwelling. There is also easy access to bus stops and Huddersfield train station. This will be improved with the **Trinity Street Access project** and **Station Gateway improvements** and our scheme contributes towards the economic rationale of both these investments. The ability to access shops, schools and medical services on foot also mean less reliance on the private car. Combined, our scheme and those being delivered by the Council will help to reduce CO<sup>2</sup> emissions in Huddersfield.*

*Depending on project timescales, the new homes will have to comply to the latest building regulations. These are being strengthened and tightened over time as the government seeks to achieve net zero targets. Initially, changes to Part L of the Building Regulations (expected to be adopted by the end of 2021) will result in a 31% reduction of carbon emissions of new build homes. The Future Homes Standard will then be adopted in 2025 and it is estimated they will produce 75- 80% savings compared to current standards. In postcode HD1, less than 14% of properties have an energy performance rating of B+. This scheme will begin to improve the operational standards of properties in Huddersfield Town Centre.*

### *Timing Benefits*

*We believe one of the key benefits of our proposal is the intention and ability to commence quickly. A positive committee outcome in November (and Section 106 in 4 weeks) will facilitate a commencement of the*

*enabling works contract in January 2022 and Lidl starting their store construction in July 2022.*

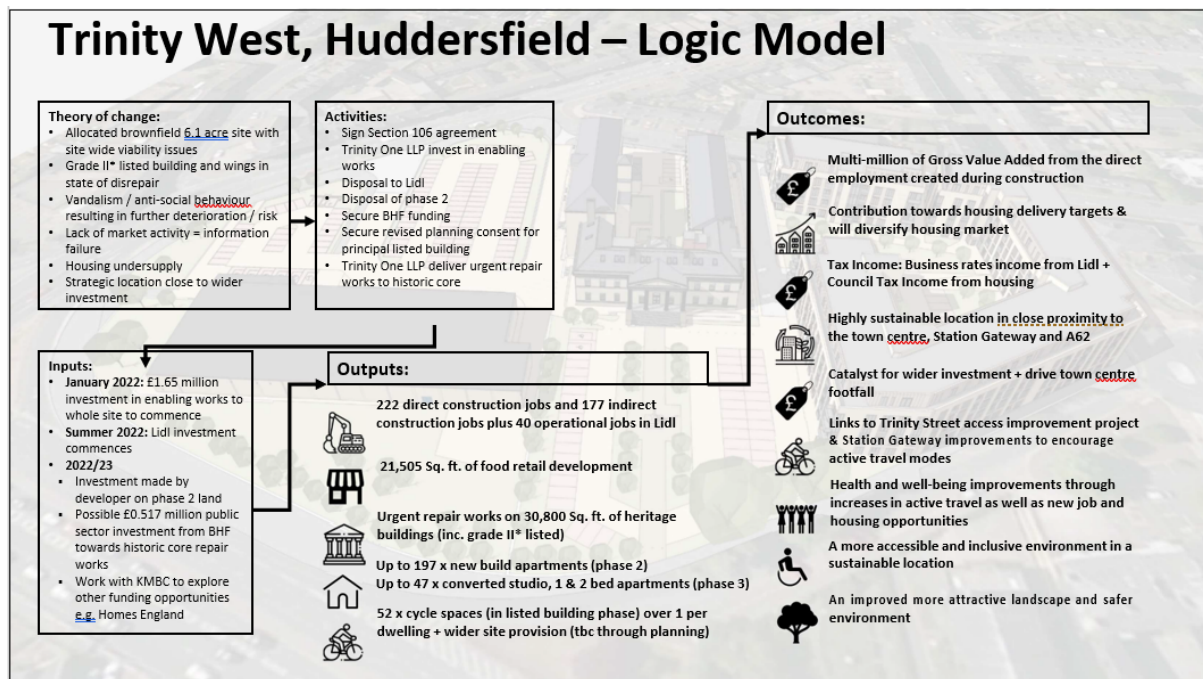
*This site activity will facilitate the marketing of the future phases as a major regeneration scheme. Positively, the way we have structured the Lidl transaction enables our delivery of the cleared development platform as being self-funding and committed.*

*In the interim, we can continue to pursue options for grant aid support, and we remain keen to work with the Council in exploring other avenues such as working with Homes England or delivering an NHS drop in facility in line with lengthy dialogue we have held with NHS Architects.*

*The site has fundamental viability issues as confirmed by different independent advisers to Kirklees and WYCA. Without the first 2 phases of development coming forward, there can be no investment in the site and the benefits set out in this letter would not be achieved. The site is already a target for vandalism and anti-social behaviour and bringing the site forward for regeneration will eradicate the problem.*

*This site presents a major regeneration opportunity for the Council with significant benefits. The NPPF gives significant weight on the need to support economic growth and seeks to ensure that investment in business is not overburdened by the combined requirements of planning policy expectations. Through the regeneration and sustainable development of this site, a more vibrant and attractive environment will be created at the western gateway to Huddersfield Town Centre. Along with investments proposed by the Council themselves, the schemes could be catalysts for further inward investment in the town. With a consent in November 2021, change could begin as soon as January 2022, sending out renewed and positive messages about the town in the New Year*

## Appendix 2: Applicant diagram



## Appendix 3

### [Draft S106 Agreement](#)

#### S106 Plans

- [Plan 1 Hybrid Application Split Plan](#)
- [Plan 2 Demolition Plan](#)
- [Plan 3 Site Layout Plan](#)

### [Draft Conditions](#)

### [Draft Conditions Phasing Plan Re Condition 3](#)

## Appendix 4

Link to previous SPC report- 18<sup>th</sup> November 2021  
[link to committee report](#)