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

**STRATEGIC PLANNING COMMITTEE**

**Date: 11-May-2023**

**Subject: Planning Application 2021/94061 Reserved matters application pursuant to outline permission 2022/91849 for variation condition 21 (highways and occupation) on previous permission 2021/94060 for variation condition 32 on previous permission 2016/92298 for outline application for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) to include the discharge of conditions 17 (site investigations), 29 (Noise attenuation) and 31 (electric vehicle charging points) Former North Bierley Waste Water Treatment Works, Oakenshaw, BD12 7ET**

**APPLICANT**

**Interchange LLP 26**

**DATE VALID**

**22-Oct-2021**

**TARGET DATE**

**21-Jan-2022**

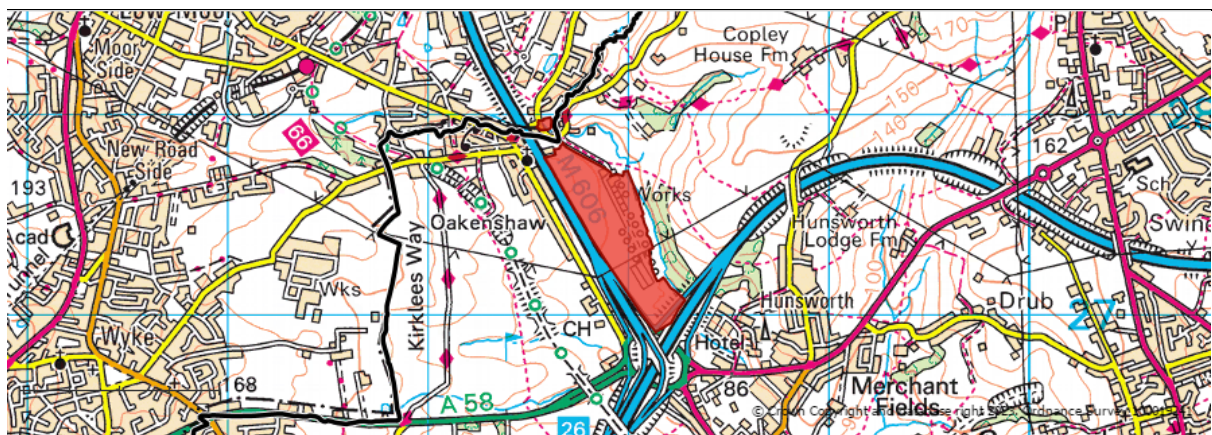
**EXTENSION EXPIRY DATE**

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

[Public speaking at committee link](#)

**LOCATION PLAN**



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

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**Electoral wards affected:** Cleckheaton

**Ward Councillors consulted:** Yes

**Public or private:** Public

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## **RECOMMENDATION**

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

### **1.0 INTRODUCTION**

- 1.1 This is a reserved matters application to outline application 2022/91849 which approved the construction of 41,191m<sup>2</sup> of B1, B2 (limited to 51.9% of total space), and B8 floor space across the application site. Application 2022/91849 is a S73 Variation of Condition to application 2021/94060, which in turn was a S73 application to the original permission 2016/92298.
- 1.2 This reserved matter application seeks approval of the reserved matters of Scale, Appearance, Layout, and Landscaping.
- 1.3 The application also seeks to discharge condition 6 (Biodiversity Enhancement Management Plan) conditions 17 (Site Investigations), 29 (Noise Attenuation) and 31 (Air Quality), which require the submission of details at Reserved Matters stage.
- 1.4 The application represents the fourth phase of development at the former North Bierley Waste-Water Treatment Plant. Each previous phase has had a separate respective Reserved Matters application (as detailed in paragraphs 2.2 and 4.1).
- 1.5 The application is brought to the Strategic Planning Committee in accordance with the committee's previous request that any reserved matters application following the determination of 2021/94060 be returned to the committee for consideration.

### **2.0 SITE AND SURROUNDINGS**

- 2.1 The application site (the original outline's red-line boundary) extends to approximately 23 hectares and originally consisted of the area of the former North Bierley Waste Water Treatment Works (WWTW) and adjacent agricultural fields. It is situated to the north-west of the M62 and to the east of the M606. The site slopes down from the north to the south with motorway embankments to the south and west. To the east is Hanging Wood, separated from the site by Hunsworth Beck. Access to the site is via Cliff Hollins Lane, using a newly constructed road. Cliff Hollins Lane connects onto Mill Carr Hill Road, which rises to join Bradford Road. Turning left onto Bradford Road then provides a connection to Junction 26 of the M62.

2.2 Following approval of application outline application 2016/92298 and the subsequent associated reserved matters, the site has been developed in phases and currently hosts three commercial buildings. The phases were as follows:

- Phase 0: Demolition works of part of former Waste Water Works
- Phase 1: Construction of access road and plateaus for later phases via Reserved Matters application ref. 2020/91807.
- Phase 2: Erection of 21,367 m<sup>2</sup> building, via Reserved Matters application ref. 2020/91807.
- Phase 3: Erection of 10,067m<sup>2</sup> across two buildings, via Reserved Matters application ref. 2021/91932.
- Phase 4: This phase of development, seeking 9,755 m<sup>2</sup>, as fully detailed in section 3.0 of this report.

2.3 In total the units approved across phases 2, 3, and the proposed phase 4 would provide 41,189m<sup>2</sup> of the total approved 41,191m<sup>2</sup>.

2.4 For information purposes an additional and separate outline application for another 12,078m<sup>2</sup> of floor space has been submitted relating to the south portion of the site and is pending determination.

2.5 At the time of writing the portion of the site dedicated to phase 4 is used for purposes ancillary to construction (of the earlier phases), including material storage, site cabins, and contractor parking.

2.6 The surrounding area is broadly residential in character. The site is positioned between Oakenshaw to the north and Cleckheaton to the south. The village of Oakenshaw is broadly to the north-west of the site and includes dwellings along Bradford Road, to the west of the M606. There are further residential properties to the north-east and north-west of the site along Cliff Hollins Lane (which are closest to the site) and Mill Carr Hill Road. The Woodlands C of E Primary School lies at the bottom of Mill Carr Road, close to the junction with Cliff Hollins Lane.

### **3.0 PROPOSAL**

3.1 The application is Reserved Matters, seeking approval of all matters, namely Access, Appearance, Layout, Landscaping, and Scale.

3.2 The proposal is for a single industrial unit, to be occupied for purposes within Use Classes B1c/B2/B8, as permitted by the outline planning permission. The proposed building would have a ground floor of 9,290sqm, with 465sqm of mezzanine to host an ancillary office for a total of 9,755 m<sup>2</sup>.

3.3 The building would have a rectangular footprint. The roof would consist of twin hipped roofs, with a maximum height of 18.0m, set behind a parapet with a maximum height of 16.7m. Walls and the roof would be faced in metal cladding, including flat and trapezoidal profiles, in contrasting shades of grey. Glazing would be predominantly on the south-west elevation with a small amount on the north-west. No glazing would be located on the north-east or south-east. Rooflights would be sited in the hipped roofs. Vehicle service / loading bay doors would be located on the south-west elevation.

- 3.4 The building would be set back within the site. Access would be taken from the currently unnamed new access road through the site. The service yard would be sited in the south-west portion of the site, with car parking to the north. A total of 95 parking spaces are proposed, with five twin Electric Vehicle Charging Points (EVCP), serving 10 spaces, are proposed along with 12 cycle parking spaces.
- 3.5 Landscaping is proposed around the edges of the site and includes the provision of 25 standard trees, hedgerow, and grass / wildflower planting. The site would be encompassed by a 2.4m high paladin fence perimeter.
- 3.6 This application also seeks to discharge Condition 17 (Site investigations), Condition 29 (Noise attenuation) and Condition 31 (Electric vehicle charging points) of 2022/91849 as they relate to this phase. These are detailed in the assessment section below.
- 3.7 It is also noted that a range of other matters, including drainage, are still subject to conditions on the outline permission and will be dealt with via separate discharge of condition applications in due course.

## 4.0 RELEVANT PLANNING HISTORY

### 4.1 Application Site

2016/92298: Outline application for redevelopment of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) – S106 Outline Approved

**Note:** The following applications all stem from application 2016/92298, which was an outline application for commercial development covering the application site plus additional land to the north.

2020/91436: Non material amendment to previous permission 2016/92298 for outline application for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) – NMA Approved

2020/91488: Reserved matters application pursuant to outline permission 2016/92298 outline application for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) (Phase 1) to include the discharge of Conditions 6 (BEMP), 17 (Site investigations), 18 (Tree Survey), 29 (Noise attenuation) and 31 (Electric vehicle charging points) – RM Approved

2020/91807: Reserved matters application pursuant to Phase 2 of outline permission no. 2016/92298 (as amended by NMA 2020/91436) for the redevelopment of the former waste water treatment works following demolition of existing structures to provide employment uses (Use classes B1(c), B2 and B8) to include the discharge of Condition 6 (BEMP), Condition 9 (Lighting design strategy), Condition 17 (Site investigations), Condition 29 (Noise attenuation) and Condition 31 (Electric vehicle charging points) of 2016/92298 as they relate to Phase 2 – RM Approved

2021/90893: Variation of Conditions 1, 2 and 4 on previous permission 2020/91807 for Reserved Matters Application pursuant to Phase 2 of Outline Permission 2016/92298 (as amended by NMA 2020/91436) for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (B1(C), B2 and B8) to allow for minor changes to the shape of the building to address the correct positioning of existing overhead power cables – Removal / Variation approved

2021/91901: Non material amendment to Condition 20 of previous permission 2016/92298 for outline application for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) to enable the construction of Phase 2 – NMA Approved

2021/91932: Reserved matters application pursuant to outline permission 2016/92298 for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) relating to Phase 4 - the construction of 2 x industrial warehouse units with ancillary office accommodation (approximately 6021m<sup>2</sup> and 4046m<sup>2</sup>) with parking and landscaping, including the discharge of Condition 6 (Bio-diversity Enhancement Management Plan), Condition 17 (Site Investigations), Condition 19 (Public Rights of Way), Condition 29 (Noise Attenuation) and Condition 31 (Electric Vehicle Charging Points) – Approved

**Note:** while referred to as phase 4, this development was implemented as phase 3. For consistency, throughout this application the above application is referred to as phase 3 and the current application under assessment as phase 4.

2021/94060: Variation condition 32 on previous permission 2016/92298 for outline application for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) – Pending determination (approved at committee, pending S106 being signed)

2022/91849: Variation condition 21 (highways and occupation) on previous permission 2016/92298 for outline application for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) – Pending determination (approved at committee, pending S106 being signed)

2022/91639: Non material amendment to previous permission 2021/90893 for Variation of Conditions 1, 2 and 4 on previous permission 2020/91807 for Reserved Matters Application pursuant to Phase 2 of Outline Permission 2016/92298 (as amended by NMA 2020/91436) for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (B1(C), B2 and B8) to allow for minor changes to the shape of the building to address the correct positioning of existing overhead power cables – NMA Approved

2022/92824: Non material amendment to previous permission 2021/91932 for reserved matters application pursuant to outline permission 2016/92298 for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) relating to Phase 4 - the construction of 2 x industrial warehouse units with

ancillary office accommodation (approximately 6021m<sup>2</sup> and 4046m<sup>2</sup>) with parking and landscaping, including the discharge of Condition 6 (Bio-diversity Enhancement Management Plan), Condition 17 (Site Investigations), Condition 19 (Public Rights of Way), Condition 29 (Noise Attenuation) and Condition 31 (Electric Vehicle Charging Points) – NMA Approved

**Note:** Discharge of condition applications not listed due to substantial numbers.

#### 4.2 Surrounding Area

*Former North Bierley Waste Water Treatment Works, Cliff Hollins Lane, Oakenshaw, BD12 7ET*

2021/94208: Outline application for redevelopment of former waste water treatment works, including demolition of existing structures to provide employment uses (Use Classes E(g)(ii); E(g)(iii); B2 and B8) – Awaiting determination

*land west of M62, south of, Whitehall Road, Cleckheaton, BD19 6PL*

2021/92603: Erection of storage and distribution unit (Use Class B8) with ancillary offices, car parking, servicing, landscaping and access (amended and further information received) – Refused

#### 4.3 Enforcement History

COMP/20/0238: Alleged breach of conditions – Resolved

COMP/20/0268: Material start on permission in breach of conditions – Resolved

A Temporary Stop Notice (TSN) was served on the site on 10th July 2020. It was issued as a result of construction works pursuant to Phase 1 having commenced without the relevant pre-commencement conditions having been discharged. The works that had started were principally deemed to have caused harm to residential amenity as a consequence of the stockpiling of material on the boundary of the site near to residential properties. The TSN required the applicant to cease all construction works pursuant to 2016/92298, including demolition, excavation & engineering works. It took effect on 10 July 2020 and ceased to have effect on 7 August 2020. The applicant complied with the terms of the TSN.

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

- 5.1 The application was delayed pending the determination of applications 2021/94060 and 2022/91849, to ensure the Reserved Matters was applied to the most up to date version of the original outline permission. Following assessment, amendments were sought to the height of the building to lower it to 18m, as expected at Outline Stage, and clarification from technical consultees. These amendments / requests were complied with, allowing officers to support the proposal.

## 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) and Supplementary Planning Guidance / Documents

6.2 The application site is an employment allocation (ES7) in the Kirklees Local Plan.

6.3 Relevant Local Plan policies are:

- **LP1** – Presumption in favour of sustainable development
- **LP21** –Highways and Access
- **LP24** –Design Policy
- **LP28** – Drainage
- **LP30** –Biodiversity and Geodiversity
- **LP32** –Landscape
- **LP33** –Trees
- **LP52** –Protection and improvement of environmental quality
- **LP53** –Contaminated and unstable land
- **LP64** – Employment allocations

6.4 The following are relevant Supplementary Planning Documents or other guidance documents published by, or with, Kirklees Council;

#### *Supplementary Planning Documents*

- Highways Design Guide SPD (2019)

#### *Guidance documents*

- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Waste Management Design Guide for New Developments (2020)

### National Planning Guidance

6.5 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) 2021, published 20<sup>th</sup> July 2021, and the Planning Practice Guidance Suite (PPGS), first launched 6<sup>th</sup> March 2014, together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- **Chapter 2** – Achieving sustainable development
- **Chapter 4** – Decision-making
- **Chapter 6** – Building a strong, competitive economy
- **Chapter 9** – Promoting sustainable transport
- **Chapter 11** – Making effective use of land
- **Chapter 12** – Achieving well-designed places
- **Chapter 14** – Meeting the challenge of climate change, flooding and coastal change
- **Chapter 15** – Conserving and enhancing the natural environment

6.6 Other relevant national guidance and documents:

- MHCLG: National Design Guide (2021)

### Climate change

6.7 The Council approved Climate Emergency measures at its meeting of full Council on the 16<sup>th</sup> of January 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.

6.8 On the 12<sup>th</sup> of 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 would use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

## **7.0 PUBLIC/LOCAL RESPONSE**

### *Public representation*

7.1 The application has been advertised as a Reserved Matters application via site notices and through neighbour letters to properties bordering the site, along with being advertised within a local newspaper. This is in line with the Council’s adopted Statement of Community Involvement.

7.2 The end date for public comments is 4<sup>th</sup> of May, 2023, the day this report is published. At the time of writing, no public representations have been received. Should any public representations be received on or after the 4<sup>th</sup> of May they will be reported within the update.

7.3 The site is within Cleckheaton Ward, where members are Cllr A Pinnock, Cllr K Pinnock, and Cllr J Lawson. Members were notified of the proposal, with no comments received.



## **8.0 CONSULTATION RESPONSES**

### **8.1 Statutory**

Bradford MDC: No comments received.

K.C. Highways: The proposal is consistent with the outline and other reserved matters. No objection.

K.C. Lead Local Flood Authority: Advised no drainage details provided to comment on. However, matters of drainage and flood risk were considered and addressed at Outline stage and via conditions.

Northern Gas Network (NGN): Expressed initial concerns given the presence of gas pipes under the site. However, on confirmation that the applicant and NGN have an agreement in place over the phased development, confirmed no objection.

The Coal Authority: No objection, with the details submitted demonstrating no risk from nearby historic coal works.

The Environment Agency: No objection.

### **8.2 Non-statutory**

K.C. Crime Prevention: No objection, with conditions advised.

K.C. Ecology: No objection.

K.C. Environmental Health: No objection.

K.C. Landscape and Trees: Advise that further tree planting can be accommodated on site, however no objection subject to conditions.

National Highways: No objection.

Yorkshire Water: Expressed initial concerns over works near existing drainage infrastructure, with insufficient details provided. Further details were provided and Yorkshire Water have confirmed no objection.

## **9.0 MAIN ISSUES**

- Land use and principle of development
- Access and Highways
- Appearance, Scale, Layout
- Landscape
- Reserved Matters Summary
- Other matters
- Discharge of Conditions
- Representations

## 10.0 ASSESSMENT

### Land use and principle of development

- 10.1 Paragraph 47 of the National Planning Policy Framework (the Framework), which is a material consideration in planning decisions, confirms that planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. This approach is confirmed within Policy LP1 of the Kirklees Local Plan, which states that when considering development proposals, the Council would take a positive approach that reflects the presumption in favour of sustainable development contained within the Framework. Policy LP1 also clarifies that proposals that accord with the policies in the Kirklees Local Plan would be approved without delay, unless material considerations indicate otherwise.
- 10.2 The site is allocated for employment use (E5) in the Kirklees Local Plan. The parent outline permission 2022/91849 (the latest S73 variation of condition to the original outline application on the site, ref. 2016/92298) established the principle of development upon the whole site for the following, with all matters reserved:
- Variation of condition 21 (highways and occupation) of previous permission 2021/94060 for variation of condition 32 of previous outline permission 2016/92298 for **redevelopment of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8)**
- 10.3 The current application is for the fourth and final planned phase of development submitted pursuant to the outline 2022/91849. As a summary of the past phases:
- Phase 0: Demolition works of part of former Waste Water Works
  - Phase 1: Construction of access road and plateaus for later phases via Reserved Matters application ref. 2020/91807.
  - Phase 2: Erection of 21,882m<sup>2</sup> building, via Reserved Matters application ref. 2020/91807.
  - Phase 3: Erection of 10,067m<sup>2</sup> across two buildings, via Reserved Matters application ref. 2021/91932.
  - Phase 4: This phase of development, seeking 9,755 m<sup>2</sup>, as fully detailed in section 3.0 of this report.
- 10.4 In total the units approved across phases 2, 3, and the proposed phase 4 would provide 41,189m<sup>2</sup> of the total approved 41,191m<sup>2</sup>. Therefore, the proposed development would not conflict with any of the principles or parameters established within the parent outline permission.
- 10.5 Having been considered and determined as part of the outline planning permission, no further assessment of the principle of development is appropriate or necessary as part of this application. It is considered that this Reserved Matters is fully compliant with the outline permission. The development will be subject to the relevant outstanding conditions set out in the outline permission.

- 10.6 Accordingly, an assessment of the Reserved Matters applied for is required, followed by assessment of any other material considerations.

#### Access and Highways

- 10.7 Access is defined as:

*the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network.*

- 10.8 The construction of the means of access into the site, from Cliff Hollins Lane, and the details of the estate road was approved in accordance with the Reserved Matters application pursuant to Phase 1 (2020/91488). The accesses into the current phase would be taken directly from this new road. The plans indicate that the required visibility splays of 2.4m x 43m are achievable from the new access. A security gate is shown across the access; however, it is well set back into the site, enabling HGVs to turn into the site and await the gate to be opened without blocking the highway.

- 10.9 The provision of 95 parking spaces (inc. 7 accessible spaces) is considered proportionate to the scale of the building. It is noted to be a consistent ratio comparable to the buildings approved as part of phases 2 and 3.

- 10.10 In terms of pedestrians and cyclists, the main estate road would make provisions for a footway on both sides up to the site access. Cycle parking is also proposed within the site in the form of hoops and shelter for 12 bikes, which may be secured via condition.

- 10.11 On the basis that this Phase 4 scheme falls within the maximum floorspace approved under the outline permission, its impact on the surrounding highway network is considered acceptable. The proposal and its access arrangement would therefore comply with the requirements of Policy LP21 and guidance with the Framework.

#### Appearance, Scale, Layout

- 10.12 Appearance is defined as:

*the aspects of a building or place within the development which determine the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture.*

- 10.13 Scale is defined as:

*the height, width and length of each building proposed within the development in relation to its surroundings.*

- 10.14 Layout is defined as:

*the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development.*

### *Visual Amenity*

- 10.15 The building's scale is in accordance with the floor space permitted via the parent outline. The outline also limited heights to 18m, which the proposal also complies with. Overall, the scale of the building is as expected at outline stage, and would sit comfortably alongside the other units approved on the site.
- 10.16 The layout of the site is characteristic of a large commercial unit, consisting of a large structure with a parking area and service bay. The unit would be set away from the shared access road, giving a suitable separation to prevent a cramped / visually overbearing appearance. The layout is consistent with the approved use of the site and considered to be acceptable as a result. In terms of the wider site, the development is set away from the outline's boundary lines and would not be unduly prominent when viewed from outside the site.
- 10.17 The site has a high-pressure gas pipeline running through it as well as water pipes. Both Northern Gas Network and Yorkshire Water offered an initial holding objection to the proposal, due to the siting close to the infrastructure. However, the applicant has been in discussions with each of these parties and provided sufficient details to overcome their concerns. Therefore, both Northern Gas Network and Yorkshire Water have withdrawn their original objections.
- 10.18 The appearance of the building is typical for contemporary industrial units: the design proposed would mimic that found on the three existing buildings on site, approved as part of phases 2 and 3. It would be constructed in a modern cladding system in shades of grey. Grey is considered an appropriate colour, as seen on the other buildings on site. The use of grey, over a coloured considered more natural, such as green, is preferable as green cladding does not necessarily sit comfortably within the natural landscape. Instead, being an artificial green colour set against a natural green, it can contrast with it and be more visible as a result. Typically, when viewed from a distance, the colour finish should be of a tonality that is equal to, or a degree darker than, the dominant background tonality to avoid any adverse visual effects arising from contrast and reflection. A dark grey can therefore be effective in reducing the impact of the building on the surrounding area in terms of visual dominance. The introduction of glazing details, and small areas of brick, to the front elevation and around the edges of the building is particularly welcomed as it would add an appropriate level of visual interest.
- 10.19 The material pallet and overall appearance of the building would replicate the previous phases approved and built on site and would therefore harmonise well. A condition for material samples is required, to ensure suitable high quality end products are utilised.
- 10.20 Taking all these matters into account, the layout, scale and appearance of the building would represent a sufficiently good design to accord with the principles of Policy LP24 of the Kirklees Local Plan and guidance within the NPPF.

### *Residential amenity*

- 10.21 New development has the potential to harm the amenity and living standards of neighbouring residents, with Policy LP24 seeking to protect established amenity standards.

- 10.22 In this case, the proposed use of the Phase 4 building is wholly consistent with the principles established by the outline planning permission. This assessment is limited to considering the submitted details in the context of the Reserved Matters.
- 10.23 The proposed building would be in excess of 300m from the nearest properties to the north (those accessed from Cliff Hollins Lane) and 270m from those to the west (accessed from Bradford Road). While the size of the building in question is noted, the substantial separation distance is sufficient to ensure no detrimental harm through overbearing, overshadowing, or overlooking.
- 10.24 Matters of noise, air pollution etc. were considered at outline stage and address via condition. Several of these conditions required details, including noise mitigation, to be provided at Reserved Matters stage. These are considered in paragraphs 10.? – 10.?.
- 10.25 Concluding on the above, officers are satisfied that the matters of layout, scale, and the appearance of the proposed development would not result in material harm to the amenity of neighbouring residents. Furthermore, it would not lead to harmful pollutants that harm amenity, with security offered by the conditions imposed at outline stage (some of which are considered further below). The proposal is therefore deemed to comply with LP24 and LP52 of the Kirklees Local Plan.

#### Landscape

- 10.26 Landscape is defined as:

*the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes: (a) screening by fences, walls or other means; (b) the planting of trees, hedges, shrubs or grass; (c) the formation of banks, terraces or other earthworks; (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and (e) the provision of other amenity features;*

- 10.27 Landscaping is to consist of a mixture of low-level planting (wildflower / grass), hedging and trees encircling the site. This would have the dual benefit of adding attractive planting to the area while reducing the prominence of the buildings (and associated parking etc).
- 10.28 K.C. Landscape welcome the landscaping, subject to requested conditions on ensuring it is implemented and managed thereafter. K.C. Trees stated the principles shown are acceptable, however requested that larger tree species be sited alongside the road. This was discussed with the applicant; however, they stated it would not be feasible: the road has been implemented, and trees species larger and closer than expected to the road would cause management issues. This has been discussed with K.C. Trees and accepted.

- 10.29 The application also includes the provision of a boundary treatment plan. A 2.4m high balance fence would surround each site, including along the frontage. Such fencing is typical for industrial buildings such as that proposed, and has been implemented for the earlier phases. The fencing along the frontage would be behind parts of the landscaping, making it less prominent from the street. Accordingly, the proposed fencing is considered appropriate.
- 10.30 The proposed landscaping scheme and boundary treatment are considered to be acceptable to meet the requirements of Policy LP32. The permission will be subject to a condition that the landscape scheme be implemented in accordance with the plan prior to first occupation of the development, or within the first planting season following first occupation.

#### Reserved Matters Summary

- 10.31 The proposals submitted for Phase 4 regarding the reserved matters of access, layout, appearance, scale and landscaping comply with the outline permission and for the reasons set out above, are considered to comply with relevant policies within the Kirklees Local Plan and guidance within the NPPF. These reserved matters are therefore considered acceptable for this phase of development.

#### Other matters

##### *Climate change*

- 10.32 The outline planning permission, to which this RM application relates, predates the Council's declaration of a climate change emergency in 2019 and the target of achieving "net zero" carbon emissions by 2038. Nevertheless, the applicant has applied to discharge Condition 31 of the outline planning permission, which requires details of on-site, low emission mitigation strategies and electric charging points, which is considered below. Condition 31 is considered further in paragraphs 10.? – 10.? .
- 10.33 As part of this, it is noted that the applicant intends to construct the building to achieve a BREEAM rating of 'Very Good'. This includes a consideration of matters such as sustainable procurement, energy performance, visual comfort (daylighting/views), ventilation, energy monitoring, water consumption and travel measures. Whilst this BREEAM rating does not specifically include any requirements in relation to low or zero carbon technologies (limited to buildings that seek to a achieve a rating of excellent or outstanding), it does at least demonstrate a commitment to considering the environmental impact of the building and addressing it as far as practicable for a building of this type.
- 10.34 The building is also designed to host solar panels, allowing their simple installation should they became optimal.
- 10.35 It is also noted that the proposal includes the provision of electric vehicle charging points and extensive tree planting. In combination, these elements will serve to make some positive contribution to the building's impact on climate change.

### *Flood Risk and Drainage*

- 10.36 Guidance with the NPPF advises at Paragraph 163 that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. This approach is reinforced in Policy LP27 of the KLP, which confirms, amongst other matters, that proposals must be supported by an appropriate site-specific Flood Risk Assessment (FRA) in line with National Planning Policy. Policy LP28 of the KLP relates to drainage and notes a presumption for Sustainable Drainage Systems (SuDs) and also, that development will only be permitted if it can be demonstrated that the water supply and waste water infrastructure required is available or can be coordinated to meet the demand generated by the new development.
- 10.37 With regard to drainage matters, Phase 4 is still subject to the drainage conditions imposed on the outline planning permission. These include Conditions 14 (piped discharge of surface water), 23 (residual uncertainty) and 24 (site wide drainage strategy). These conditions, which have been part discharged for earlier phases, have to be applied for separately to ensure compliance with the outline.
- 10.38 With regard to Flood Risk, Condition 15 of the outline permission requires that the development be carried out in accordance with the mitigation measures contained within the approved Flood Risk Assessment. That is a stand-alone condition to which the current phase would need to comply independent of this application.

### *Ecology*

- 10.39 Ecological assessments for the whole site were undertaken as part of the parent outline application, which established the development areas. The proposal complies with the parameters of the outline, and therefore no further ecological survey / assessment is required, and the proposal complies with Policy LP30 of the Kirklees Local Plan.
- 10.40 Condition 6 of the outline requires the submission of a Biodiversity Management Plan (BEMP) with each Reserved Matters. This is considered below.

### Discharge of Conditions

- 10.41 Outline application 2022/91849 was approved with 32 planning conditions. Of those, three conditions (as amended by Non-Material Amendment application 2020/91436) require the submission of specific information as part of each phase's reserved matters. These conditions, and an assessment of the details provided, are outlined below:

#### **Condition 6 (Biodiversity Management Plan (BEMP))**

*6.Detailed plans and particulars of the Reserved Matters for the first phase of development shall include a Biodiversity Enhancement and Management Plan (BEMP) for the entire site. The content of the BEMP shall include the following:*

- a) Description and evaluation of the features to be managed.*

- b) *Ecological trends and constraints on site that might influence management.*
- c) *Aims and objectives of management.*
- d) *Appropriate management options for achieving aims and objectives.*
- e) *Prescriptions for management actions.*
- f) *Details of initial aftercare and long-term maintenance;*
- g) *Details of the body or organisation responsible for implementation of the plan.*
- h) *Details for on-going monitoring and remedial measures.*

*The approved plan and particulars shall be implemented in accordance with the approved details and timescales pre, during and post construction.*

**Reason:** *In the interests of the biodiversity of the area and to accord with Policy EP11 of the Kirklees Unitary Development Plan, PLP30 of the Publication Draft Local Plan and guidance within chapter 15 of the National Planning Policy Framework. This is a pre- commencement condition in order to ensure that adequate mitigation and enhancement measures are incorporated into the development at the appropriate stage of the development.*

- 10.42 The applicant has submitted the Biodiversity Enhancement Management Plan to discharge condition 6 which has been reviewed by K.C. Ecology. K.C. Ecology consider the submitted information to be acceptable, and satisfactorily addresses all requirements of condition 6 for this phase: the submitted BEMP is also consistent with the BEMP submitted to discharge Condition 6 during the other Reserved Matters applications.
- 10.43 Condition 6 can therefore be discharged for Phase 4 subject to advice that to secure full compliance with Condition 6 the development shall be implemented in accordance with the approved plan and particulars and in accordance with the approved details and timescales pre, during and post construction as set out in the approved BEMP.

### **Condition 17 (site investigations)**

*17. Detailed plans and particulars of the reserved matter (layout and landscape) pursuant to conditions 1 and 2 above shall include:*

- *A report of the findings following intrusive site investigations carried out in relation to condition 16;*
- *The results of any gas monitoring undertaken;*
- *A layout plan which identifies appropriate zones of influence for the recorded mine entries on site and the definition of suitable 'no build' zones;*
- *A scheme of treatment for the recorded mine entries for approval;*
- *A scheme of remedial works for the shallow coal workings for approval;*
- *Details and how the above two matters are to be undertaken; and*
- *Written verification that the remediation works shall be carried out in accordance with the approved details.*

*Thereafter the development shall be carried out in accordance with the approved details. Prior to the first use of the approved development, written confirmation shall be submitted to the Local Planning Authority, verifying*



*the works have been fully completed in accordance with the approved details.*

**Reason:** *In the interest of health and safety, to ensure any pollution/risk identified is dealt with appropriately, to ensure the users of the new development are protected from being put at unacceptable risk and to accord with Policies LP52 and LP53 of the Kirklees Local Plan as well as guidance in the National Planning Policy Framework.*

- 10.44 This condition was requested by The Coal Authority and seeks to ensure each phase of development adequately considers local coal legacy and shallow coal works on or near the (original outline's) redline boundary.
- 10.45 The Coal Authority state that their records indicate that there are no coal mining features present at surface or shallow depth within this phase's site boundary. As such, they have confirmed that they have no objection to the discharge of Condition 17 for this phase of development. Accordingly, condition 17 is adhered to in relation to this phase and officers recommend that it may be discharged (pursuant to this phase only).

#### **Condition 29 (Noise attenuation)**

*29. Detailed plans and particulars of the reserved matter (layout & landscape) pursuant to conditions 1 and 2 above, shall demonstrate how proposals will achieve a level of 5dB attenuation measures through the provision of screening and land features as predicted in Table 21 of the Noise & Vibration Report by AECOM, dated December 2017. Thereafter the development shall be completed in accordance with the approved details, before occupation of any building on site or in agreement with a phasing of the development to which the buildings relate to and thereafter retained.*

**Reason:** *In the interest of residential amenity of nearby residents and to accord with Policy LP52 of the Kirklees Local Plan and guidance within the National Planning Policy Framework.*

- 10.46 This condition was advised by K.C. Environmental Health, who have reviewed the submitted Noise Impact Assessment. They confirm that the submitted details demonstrate that adequate noise mitigation (in excess of 5dB reduction) has been proposed. As such, they offer no objection to the discharge of condition 29, which officers recommend (pursuant to this phase only).

#### **Condition 31 (air quality)**

*31. Detailed Plans and particulars of the Reserved Matters (layout and landscape) pursuant to conditions nos. 1 and 2 shall include:*

- *on site, low emission mitigation strategies; and*
- *details of electric charging points which shall be installed on the basis of 1 charging point per 10 spaces. Thereafter the development shall be completed in accordance with the approved details/mitigation strategies before occupation/use of any building on site or in agreement with a phasing of the development to which the buildings relate and thereafter retained.*

**Reason:** To offset and mitigate the impact from the development, equivalent to the identified damage costs and to accord with the guidance contained in Chapter 9 and Chapter 15 of the National Planning Policy Framework, the West Yorkshire Low Emissions Strategy and Policies LP21 and LP24 of the Kirklees Local Plan.

10.47 A total of 10 (10% of total spaces) parking bays would be served by Electric Vehicle Charging Points, of an acceptable specification. This is welcomed.

10.48 On the matter of low emission, the applicant has stated:

*I can confirm the building will meet BREEAM Very Good – this is a requirement of the funder to the applicant and written into the development agreement and included in the contract particulars that will be appended to the build contract. On that basis, it is a guarantee to be delivered to the Very Good standard.*

*Likewise in respect of the EPC Assessor. All M&E is to be of low emission nature to ensure they hit the strict EPC target required by the funders.*

*Furthermore, the building is also structurally future proofed to allow for a retrospective installation of solar without any improvements to the roof or steel work.*

These criteria are welcomed and deemed sufficient to discharge condition 31 (pursuant to this phase only).

## **11.0 CONCLUSION**

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

11.2 The principle of development has been established by outline app 2022/91849. The proposed Reserved Matters for this phase of development comply with the description of development and conditions imposed by 2022/91849. The reserved matters details, of access, appearance, layout, scale and landscaping, are deemed acceptable and comply with the policies of the Kirklees Local Plan.

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

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

1. Three years to commence development.
2. Development to be carried out in accordance with the approved plans and specifications
3. Cycle parking spaces to be provided
4. Material samples
5. Landscaping to be implemented prior to occupation, unless other phasing agreed.
6. Landscaping management and maintenance strategy to be provided.

And discharge of conditions (pursuant to this phase only):

- Condition 6 (BEMP)
- Condition 17 (Coal Legacy)
- Condition 29 (Noise Mitigation)
- Condition 31 (Air Quality)

### **Background Papers**

[Application and history files](#)

Available at:

[Planning application details | Kirklees Council](#)

[Certificate of Ownership](#)

Certificate B signed.

