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

**STRATEGIC PLANNING COMMITTEE**

**Date: 08-Jun-2023**

**Subject: Planning Application 2022/91789 Erection of four industrial units for E(g)(iii) (light industry) use with associated parking and turning facilities with 10 storage units (within a Conservation Area) Land south of railway line, Scar Lane, Milnsbridge, Huddersfield, HD3 4PN**

**APPLICANT**

B Good

**DATE VALID**

23-May-2022

**TARGET DATE**

22-Aug-2022

**EXTENSION EXPIRY DATE**

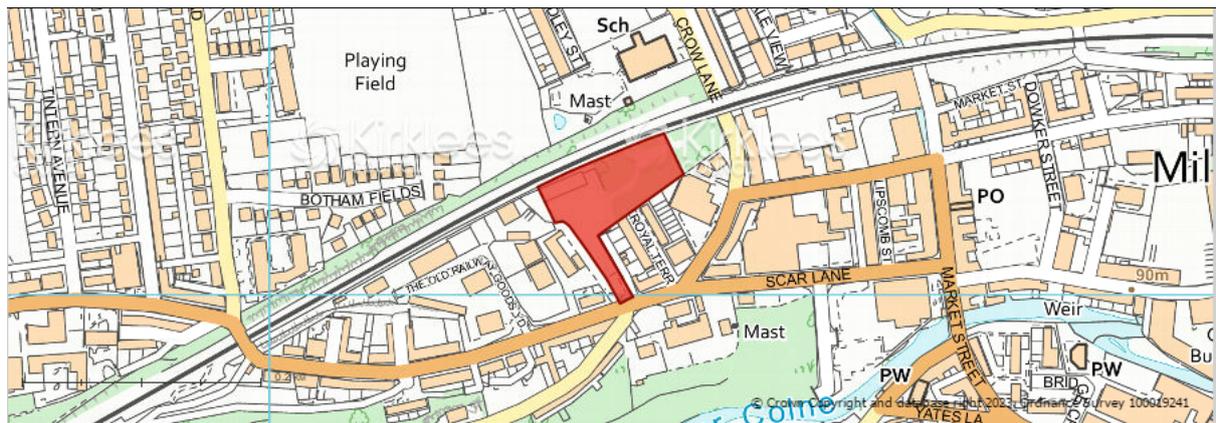
16-May-2023

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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: Golcar**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**RECOMMENDATION:**

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report, and to secure a Section 106 Agreement to cover the following matter:

1. Management – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker).

**1.0 INTRODUCTION:**

- 1.1 This is an application for full planning permission (reference: 2022/91789) for the erection of four industrial units for E(g)(iii) (light industry) use with associated parking and turning facilities with 10 storage units (within a Conservation Area) at Land south of railway, Scar Lane, Milnsbridge, Huddersfield, HD3 4PN.
- 1.2 The application is brought before Strategic Committee for determination in accordance with the Council's Scheme of Delegation (Section A, 1, e) as the application is for non-residential development where the application site boundary exceeds 0.5ha in size. The application site extends to 0.66ha.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site relates to land south of railway, Scar Lane, Milnsbridge, Huddersfield, HD3 4PN.
- 2.2 The application site measures approximately 0.66ha and is historically associated with the adjacent railyard. The site is currently vacant land with areas of overgrowth and self-seeded trees. The past use is evidenced by a derelict coal drop within the site, adjacent to the railway line which runs along the entirety of the north boundary. Near the site the railway line crosses over a Grade 2 Listed viaduct to the east.
- 2.3 The site is split into two parts by its topography. To the west, the larger portion of the site, is a lower-level flat area. To the east, up an existing banking, is a smaller and higher-level plateau. The site is accessed to the south, onto Scar Lane. The access is across from the junction onto Britannia Road. The access is existing, and currently serves commercial units to the west of the site.

- 2.4 Further west is the former railway yard, which is now an industrial estate, the 'Old Railway Good Yard', hosting several units of modern industrial buildings. To the east, and flanking the entrance, are residential units comprising terrace rows. The east dwellings are accessed from Royal Terrace Road. The site is within Milnsbridge Conservation Area.

### **3.0 PROPOSAL:**

- 3.1 The application seeks planning permission for the erection of four industrial units for E(g)(iii) (light industry) use with associated parking and turning facilities with 10 storage units (Use Class B8) (within a Conservation Area).
- 3.2 The proposed buildings would provide 691sqm of E(g)(iii) (light industrial) floor space, over a mixture of single and two storey buildings. The building details are as follows:

#### *Unit 1*

This unit measures ~16m x 9.1m, with a ridge height of ~7.8m and is proposed on the 'lower level' of the site, along the southern boundary.

#### *Unit 2 (split to also include units 3 & 4)*

The unit (as a whole) measures ~28.3m x 9.1m, with a ridge height of ~8.5m and are proposed on the 'lower level' of the site, along the western boundary.

#### *Unit 5*

This unit measures ~15m x 8.1m, with a ridge height of ~8.6m and is to be located on the 'upper level' of the site, along the northern boundary.

#### *Unit 6*

This unit measures ~ 15.1m x 10m, with a ridge height of ~8.9m and is to be located on the 'upper level' of the site, along the northern boundary.

- 3.3 The proposed above units are to be constructed using a range of materials including larch timber cladding, reclaimed stone, and anthracite profiled metal roofing.
- 3.4 10 storage units are also proposed along the north-western boundary of the site. Each storage unit would have a total floor area of 19sqm and a combined total of 190sqm. The proposed units are to comprise converted shipping containers stacked upon one another (five on the ground, and five above), which are to be finished in matt black. Windows and door frames are also to be painted in black to match. The shipping containers are to be located independently within the existing coal chutes on the site, access would be retained around each of the containers.
- 3.5 Access is to be provided via the existing entrance onto Scar Lane. This access is to be improved and widened with a minimum width of 6m. 23 parking spaces are proposed within the site, two of which would be disabled spaces.

- 3.6 In terms of boundary treatments, a 1.8m high green (RAL 6005) palisade fence is proposed around the site boundary, with Amco car barriers proposed to the south of Unit 1 and to the north of the car parking area for Units 5 and 6.
- 3.7 It is anticipated that the site would accommodate circa 23 full time (equivalent) jobs. Hours of use are proposed as:

Monday – Friday: 07:30 – 19:00.

Saturday: 07:30 – 13:00.

With no Sunday or Bank Holiday working.

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

- 4.1 2021/91079 – Reserved matters application pursuant to outline permission 2019/90373 for erection of 4 industrial units for B1c (light industry) use with associated parking and turning facilities (within a Conservation Area). Withdrawn/Invalid 24<sup>th</sup> March 2021.
- 4.2 2020/92434 – Works to trees within a Conservation Area. Approved 1<sup>st</sup> September 2020.
- 4.3 2020/90202 – Work to tree in CA. Approved 2<sup>nd</sup> March 2020.
- 4.4 2019/90373 – Outline application for the erection of 4 no. industrial units for B1c (light industry) use with associated parking and turning facilities (within a Conservation Area). Approved 24<sup>th</sup> October 2019.
- 4.5 2010/93486 – Change of use and alterations to convert existing coal chutes to form 7 dwellings and outline application for erection of 4 dwellings (within a Conservation Area). Approved 20<sup>th</sup> December 2011.
- 4.6 2009/91509 – Outline application for the erection of 14 dwellings. Withdrawn 23<sup>rd</sup> November 2009.
- 4.7 95/92407 – Use of land as operations centre for storage of materials, vehicles and plant with erection of portable building, storage containers and fencing. Withdrawn 26<sup>th</sup> September 1995.
- 4.8 90/03086 – Change of use from scrap yard/storage to sale, repair and storage of caravans and sale of accessories. Approved 19<sup>th</sup> October 1990.
- 4.9 89/04226 – Change of use of land for haulage/skip and crane hire and scrap metal processing. Refused 1<sup>st</sup> June 1990.

#### Pre-application Advice

- 4.10 2021/20146 – Pre-application advice for the erection of four industrial units. Pending consideration.

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

5.1 Amendments were sought throughout the lifetime of this planning application. These amendments included additional information in respect to drainage following on from comments received from the Council's LLFA team and alterations to the layout of the site including the re-orientation of proposed unit 1 in the interests of both visual and residential amenity. Alterations to the proposed description were also requested due to a change in the use class order which resulted in a change to the proposed use class at the site.

## **6.0 PUBLIC/LOCAL RESPONSE:**

6.1 Site Notice – Expired 28<sup>th</sup> July 2022.

Press Notice – Expired 5<sup>th</sup> August 2022.

Neighbour Letters – Expired 2<sup>nd</sup> August 2022.

6.2 Two comments on the scheme have been received, these are summarised below.

- The opening hours should be amended to 07:30 - 18:00 instead of the 19:00 Saturday working hours.

**Officer note:** Noted. Both Planning Officers and Environmental Health Officers deem the submitted opening hours to be reasonable and suitable given their proposed use within a Priority Employment Area, adjacent to residential dwellings. Therefore, amended opening hours have not been requested on this occasion.

- Concerned over how far over adjacent neighbouring properties gardens unit 1 will be as it is two storeys in height. This unit should be moved more to the east to be more in line with houses than the gardens.

**Officer note:** Noted. Following receipt of amended plans the orientation of unit 1 has now been amended to run parallel with residential properties located on Royal Terrace.

- Neighbours have noted that they have rights of access to maintain the gable ends of their house.

**Officer note:** Noted. This would be a civil matter than would need to be dealt with by the relevant parties outside of this application.

**Officer note:** The application has been advertised by site notice and press notice in line with the legal statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. This is due to the application constituting major development and the site being located within a Conservation Area.

Re-consultation was not undertaken on amended plans received, as the revisions were considered to reduce the overall impact upon adjacent neighbouring properties and therefore it was deemed that the public had been adequately alerted to the nature of the proposal from the publicity of the scheme as initially submitted.

## 7.0 CONSULTATION RESPONSES:

### 7.1 Statutory:

**Network Rail** – No comments received within statutory timescales.

**KC Historic England** – Comments received 20<sup>th</sup> July 2022. No comment.

**KC Highways Development Management** – Comments received 26<sup>th</sup> July 2022. No objections subject to conditions.

**LLFA** – Whilst LLFA Officers did have initial concerns regarding the proposals, following the receipt of additional information and amended plans the Council's LLFA team now raise no objections to the scheme subject to conditions relating to the submission of a scheme detailing foul, surface water and land drainage, separate gravity drainage, drainage details, construction phase (temporary) drainage, and surface water attenuation. A Section 106 agreement is also required for the set up of a management company to perform stated maintenance and management tasks on installed sustainable drainage systems. A detailed maintenance schedule and itinerary is to be added at detailed design stage and prior to commencement of works.

### 7.2 Non-Statutory:

**KC Ecology Unit** – Comments received 17<sup>th</sup> February 2023. No objections but does recommend conditions relating to site clearance works, biodiversity net gain, lighting design strategy and the implementation of the Ecological Design Strategy.

**KC Environmental Health** – Comments received 16<sup>th</sup> August 2022. No objections subject to conditions.

**Officer note:** Whilst the applicant has sought to submit a landscape lighting plan to overcome the lighting condition requested by Environmental Health Officers, following discussions with Environmental Health it was concluded that additional information would be required over and above what has currently been submitted, most specifically they would require details of the hours of operation and the level of candelas emitted from the proposed lighting. Therefore, the original condition is deemed to still be necessary and will remain should planning permission be granted.

**KC Conservation and Design** – Comments received 9<sup>th</sup> August 2022. No objections subject to their comments being taken into consideration. These comments are discussed in more detail within the urban design section of this report.

**KC Trees** – Comments received 19<sup>th</sup> July 2022. No objections subject to conditions.

**KC Public Health** – Comments received 29<sup>th</sup> June 2022. As this sits outside the Rapid Health Impact Assessment Requirements, they provided no comments on the application.

**West Yorkshire Police Designing Out Crime Officer** – Comments received 19<sup>th</sup> July 2022. Provided advice and feedback, this is discussed in more detail further into the report.

## **8.0 PLANNING POLICY:**

8.1 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).

8.2 The application site is located within a Priority Employment Area and falls within the Milnsbridge Conservation Area. It is also important to note that to the east of the site is a Grade II Listed Viaduct.

### 8.3 Kirklees Local Plan (2019):

- **LP1 – Presumption in favour of Sustainable Development**
- **LP2 – Place Shaping**
- **LP3 – Location of New Development**
- **LP8 – Safeguarding Employment Land and Premises**
- **LP9 – Supporting Skilled and Flexible Communities and Workforces**
- **LP20 – Sustainable Travel**
- **LP21 – Highways and Access**
- **LP22 – Parking**
- **LP24 – Design**
- **LP28 – Drainage**
- **LP30 – Biodiversity and Geodiversity**
- **LP32 – Landscape**
- **LP33 - Trees**
- **LP35 – Historic Environment**
- **LP51 – Protection and Improvement of Local Air Quality**
- **LP52 – Protection and Improvement of Environmental Air Quality**
- **LP53 – Contaminated and Unstable Land**

### 8.4 Supplementary Planning Guidance/Documents:

- Highways Design Guide SPD
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Planning Applications Climate Change Guidance (2021)
- Biodiversity Net Gain Technical Advice Note (2021)
- Visibility Guidance Note (2020)
- Milnsbridge Conservation Area Appraisal

### National Planning Guidance:

- 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
- Chapter 16 – Conserving and enhancing the historic environment

### Climate change

- 8.5 The council approved Climate Emergency measures at its meeting of full Council on 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.
- 8.6 On 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 will use the relevant Local Plan policies and guidance documents to embed the climate change agenda. In June 2021 the council approved a Planning Applications Climate Change Guidance document.

## **9.0 MAIN ISSUES:**

- Land use / principle of development
- Urban design issues
- Historic environment
- Employment considerations
- Residential amenity
- Highway issues
- Trees
- Biodiversity
- Landscaping
- Drainage
- Adjacent railway infrastructure
- Land contamination
- Climate change and air quality
- Conclusion

## **10.0 APPRAISAL:**

### Land use / principle of development:

#### *Sustainable Development*

- 10.1 NPPF Paragraph 11 and LP1 outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design

considerations). It states that these facets are interdependent. The dimensions of sustainable development will be considered throughout the proposal. Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.

#### *Land Allocation - Priority Employment Area*

10.2 The application site forms part of a larger Priority Employment Area (PEA). The PEA (ref: KR2) which has a gross area of 2.66ha. This application site has an area of 0.66ha.

10.3 LP8 states that:

*'1. Proposals for development or re-development for employment generating uses (as defined in the glossary) in Priority Employment Areas will be supported where there is no conflict with the established employment uses (as defined in the Glossary) in the area.'*

10.4 The proposed Class E(g)iii (previously B1(c)) and Class B8 uses, fall within the Local Plan's definition of 'employment generating use'. This aspect of policy LP8 is therefore complied with.

10.5 The proposed provision of new employment floorspace designed to meet present-day employment needs is welcomed, as is the potential job creation associated with the proposed development.

10.6 Officers are satisfied that, given the separation distances and general suitability of adjacent commercial uses, the proposals would not cause conflict with the established employment uses. This will be considered in further detail in the assessment, where relevant.

10.7 Separately, policy LP7 of the Kirklees Local Plan outlines the following criteria when seeking to establish the 'effective and effective use of land and buildings':

*'To ensure the best use of land and buildings, proposals:*

- a. Should encourage the efficient use of previously developed land in sustainable locations provided that it is not of high environmental value;*
- b. Should encourage the reuse and adaption of vacant and underused properties;*
- c. Should give priority to despoiled, degraded, derelict and contaminated land provided that it is not of high environmental value;*
- d. Will allow for access to adjoining undeveloped land so it may subsequently be developed.*

10.8 The above is echoed within Chapter 11 of the NPPF.

10.9 The site is considered to be previously developed land, and whilst naturalised to an extent, it can be considered brownfield land that is despoiled/degraded. Furthermore, it is considered to be of limited environmental value (considered further below). Whilst there are no vacant or underused premises to be re-used, the redundant coal drops to the north of the northwest of the site are to be incorporated into the development. Furthermore, the proposal would not prevent or limit development/redevelopment of the wider Priority Employment Area.

- 10.10 Also of note, the site has benefited from a recently-expired outline permission for a similar scheme in 2019 (ref: 2019/90373). Those earlier outline proposals were for the erection of four industrial units for B1c (light industry) use with associated parking and turning facilities. Whilst the layout of the site does vary from the layout submitted within this scheme, the principle of development is the same/similar. This outline permission expired on the 24<sup>th</sup> October 2022, however given the short timescales this application is considered to still hold weight in the decision making of this current scheme.
- 10.11 In conclusion, the proposal would provide an employment generating use within an allocated Priority Employment Area, whilst also representing an efficient and effective use of land. Therefore, the principle of development is considered to be acceptable.
- 10.12 Consideration must now be given to the developments impact upon the local area, this is assessed below.

#### Urban design issues

- 10.13 Section 12 of the NPPF discusses good design. Good design is a key aspect of sustainable development, it creates better places in which to live and work and helps to make development acceptable to communities. Local Plan Policies LP1, LP2 and most importantly LP24, are also relevant. All the policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development in the local area and is visually attractive.
- 10.14 Local Plan Policy LP24 states that all proposals should promote good design by ensuring the following:
- 'The form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape' and that 'extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details and minimise impact on residential amenity of future and neighbouring occupiers'.*
- 10.15 Looking at the layout of the units, the site is separated into two parts due to the land levels within the site. As outlined previously the western portion of the site forms a lower-level flat area which then leads up to a smaller and higher-level plateau to the east. At the lower level of the site there is to be units 1, 2 (*split to also include units 3 and 4*), and 10 storage units within the existing coal chutes. Five car parking spaces are also to be provided. At the higher level there is to be units 5 and 6, with car parking for 18 vehicles located in between these buildings. This layout is deemed to be logical, with unit 1 angled to be in line with the row of dwellings located on Royal Terrace to the south to reduce the overall bulk and massing of the building. The proposal is not considered to be an overdevelopment of the site.
- 10.16 Looking at the scale and size of the units proposed, units 2, 5 and 6 are to be single storey in height, with unit 1 being two storeys. Units 2, 5 and 6 are considered to be reasonably sized and reflect other industrial units of this nature. While Unit 1 is to be larger in height and is to be located the closest to neighbouring residential properties, this building is to have a similar ridge height to 18 Royal Terrace and is to run parallel with this property, which helps to ensure that the overall bulk and massing of the unit is contextually-appropriate.

Officers therefore consider that this unit, whilst large in scale, would not appear as an alien feature within the site and would instead blend more seamlessly with adjacent residential properties. Given the above assessment, it is therefore considered that the proposed scale and size of the units are acceptable, harmonising well with both the adjacent industrial site and the surrounding residential properties.

- 10.17 In respect of the design and materials proposed within the units, Officers consider their linear and simple appearance to be typical of modern industrial units. These are evident elsewhere within the Conservation Area, most specifically within the adjacent site, whereby the use of larch timber cladding and reclaimed stone would allow the buildings to reflect existing industrial units found within The Old Railway Goods Yard (to the west). The proposed materials are discussed in more detail below.
- 10.18 In summary, the proposed development would improve the visual amenity of the area by regenerating what has historically been an untidy and derelict piece of land. This type of development would not be out of keeping with the surrounding area and the layout, scale and appearance of the development are such that the proposals would successfully integrate with surrounding development. Approval of samples of the proposed external materials can be secured by condition.

#### Historic environment

- 10.19 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act (1990) states that for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 10.20 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act (1990) requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the appearance or character of the Conservation Area.
- 10.21 Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act (1990) are mirrored in Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.
- 10.22 Furthermore, LP35 states that: *“development proposals affecting a designated heritage asset...should preserve or enhance the significance of the asset. 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.”*
- 10.23 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.”*

- 10.24 Paragraph 200 of the NPPF goes on to state that: *“Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.”*
- 10.25 Paragraph 202 of the NPPF states that when a proposed development would lead to harm, it is necessary to achieve public benefits that outweigh the harm to the heritage asset.
- 10.26 Regarding the historic environment, the site is located within the Milnsbridge Conservation Area is also in close proximity to a Grade 2 Listed viaduct (to the east). The site was historically used as a railway goods yard and includes a row of derelict coal drops to the north-west of the site, adjacent to the railway embankment. Of note, the Milnsbridge Conservation Area has an Area Appraisal whereby its heritage value is considered to be its architecture and layout, which are quintessential of a Yorkshire textile village. The heritage value of the viaduct is considered to be its historic use and architectural design.
- 10.27 To the south of the site is Royal Terrace, which relates to two rows of terraced houses which date back to the late nineteenth and early to mid-twentieth century. To the west of the site is a long building which is understood to be a former stable building also associated with the railway yard but outside the proposal site, and behind this are a several modern industrial units in The Old Railway Goods Yard industrial complex.
- 10.28 Given the nature of the application and its location, the Council’s Conservation and Design Officer was consulted. They raise no objections to the proposals noting that the site is currently vacant and makes a negative contribution to the character and significance of the Conservation Area. It is also considered that the development’s impact on the setting of the listed viaduct would be low as most of the development would be set below the level of the railway line, with only two small single storey buildings proposed on the higher plateau of the site. Furthermore, the site is set back from Scar Lane and is well shielded by mature trees, with a stone boundary wall running along the Scar Lane boundary.
- 10.29 Moving on to the proposed materials, these are to include the use of vertical Siberian larch cladding, reclaimed stone and anthracite profiled metal roofing. These materials are considered to suit the industrial nature of the site, whilst also reflecting the traditional materials found within the immediate vicinity. However, approval of samples of the proposed external materials should be secured by a condition.
- 10.30 Whilst the proposed development on the site would change the context of the coal drops and setted surface and therefore would lead to less than substantial harm, Officers consider this harm to be outweighed by the public benefits of bringing this vacant site into a sustainable use and providing employment opportunities on the site. It is also mitigated by the proposed use of traditional materials, the incorporation of the coal drops into the proposed development and the visibility of this historic structure from the main entrance on Scar Lane.

- 10.31 Conservation and Design Officers noted that whilst ideally the stone boundary wall at the site entrance should be retained, if this is to be altered or widened it should match the layout and materials of the existing. Some areas of stone setts could also be retained to give an indication of the history and character of the site, and external material samples should be submitted for approval. This should therefore be secured via a condition.
- 10.32 It is therefore concluded that the proposed development is visually acceptable, and whilst less than substantial harm would be caused to the Conservation Area, this would be outweighed by the public benefits of the proposal. As such the scheme is considered to comply with Policies LP1, LP2, LP24 and LP35 of the Kirklees Local Plan, Chapters 12 and 16 of the NPPF and S66 and S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

#### Employment considerations

- 10.33 Given that all the potential end-users are unknown at this stage it is not possible to specify the exact number of jobs that the development would support. However, within the submitted application forms it is outlined that 23 full time equivalent employees would be working at the site.
- 10.34 A number of the units proposed are small in scale and size, this is welcomed as it would help provide suitable accommodation for the start-up of new businesses. The provision of these modern light industrial and storage units would also help to support employment opportunities in the area and this weighs in favour of the proposed development and accords with Local Plan Policies LP3 and LP7 by utilising brownfield land for employment generating uses.

#### Residential amenity

- 10.35 Sections B and C of the Kirklees Local Plan Policy LP24 state that alterations to existing buildings should:
- “Maintain appropriate distances between buildings’ and ‘...minimise impact on residential amenity of future and neighbouring occupiers’.*
- 10.36 Further to this, paragraph 130 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future occupiers.
- 10.37 The site is in a mixed-use area, with residential and commercial premises surrounding the site. The proposals are for light industrial units and storage which would fall within Use Classes E(g) and B8. Uses within Class E (including E(g)) are, by definition, considered uses which can be carried out in a residential area without detriment to its amenity, including industrial processes. As such, the principle of light industrial use is therefore acceptable in a residential area.
- 10.38 However, the proposed development is situated in close proximity to a number of residential properties to the south (located on Royal Terrace). The development of a light industrial site adjacent to residential properties could potentially impact upon residents. The question is whether the impact amounts to material harm upon their living standards.

- 10.39 The units of most concern include Units 1, 5 and 6. Units 5 and 6 would be located along the north/north-eastern boundary of the application site, approximately 30+ metres away from the nearest residential dwellings. Given these large separation distances Officers have no concerns in respect of overlooking, overshadowing, or these units appearing overbearing on adjacent neighbouring properties.
- 10.40 Moving onto Unit 1, following discussions with the applicant's agent the originally proposed Unit 1 has now been re-orientated to run parallel with the row of terraced properties on Royal Terrace. This has resulted in the majority of the bulk and massing of the unit being concealed by 18 Royal Terrace, with this comes the removal of six parking spaces and a new landscaped area, adjacent to 18 Royal Terrace's rear garden. Given this change in location and orientation, Officers now do not consider the proposals to appear overbearing or overly dominant on these adjacent neighbouring properties to the south, and whilst it is acknowledged that 18 Royal Terrace has a window within the side elevation (north) which would directly face onto the side elevation of unit 1, this window is obscurely glazed and serves a bathroom. The close proximity would cause some loss of outlook and overshadowing, however, as a non-habitable room this arrangement is not considered to cause significant material harm to the amenity of occupiers. The 0.8m gap would also ensure that this window remains openable. In addition, as no windows are proposed within the southern elevation of the unit, there are no concerns with regard to overlooking or the loss of privacy. Furthermore, given the southern location of residential dwellings on Royal Terrace, there are no concerns in respect of overshadowing, or the loss of light, on this occasion.
- 10.41 It is also noted that there is existing mature planting of which the majority would be retained along the southern boundary, as outlined within the submitted Landscape Management Plan. New replacement trees are also proposed to combat the loss of 3 trees located directly adjacent to unit 1. This existing and replacement planting will also provide a buffer and some screening for dwellings located on Royal Terrace.
- 10.42 The proposed hours of use are as follows:
- Monday to Friday: 07:30 – 19:00  
Saturday: 07:30 – 13:00  
Closed on Sundays and Bank Holidays.
- 10.43 The proposal is for light industrial use and storage, whilst no detail is given on the precise proposed use and occupation of the units. Consideration has to be given to any noise emissions from the use or associated use and how this may impact upon the amenity of nearby residential occupiers.
- 10.44 The Council's Environmental Health team were consulted and requested that a condition is attached, should planning permission be granted, for a noise impact assessment to be undertaken to consider the use of the site, any vehicles (cars/vans, FLT's etc.) and any fixed mechanical plant or other noise emissions. Another source of potential harm to amenity is the increase in vehicular activity to and from the site as well as movements within it, as this has the potential to give rise to noise disturbance. To ensure that this is limited as far as reasonably practicable, a condition restricting the hours of operation of the units (including deliveries) is recommended. This would help to prevent noise nuisance at unsocial hours, especially during the night.

- 10.45 Whilst it is acknowledged that Environmental Health Officers also requested a condition be attached in relation to the hours of construction, this would be included as an advisory note as this would be covered by separate legislation.
- 10.46 Furthermore, the proposals seek to install several lights around the site, details of which are outlined within the submitted Proposed Landscape Layout Drawing 211-PL-01 Rev A, Luminaire layout and illuminance calculation drawing from Light-sense dated 21 December 2021 (ref: LSC10356/1), and catalogues for Urbini LED and Urbino LED lights. Whilst these drawings and catalogues do provide some information, the Council's Environmental Health Officers have noted that the submission does lack some specific details in respect of hours of operation, and specifics of candelas to be emitted. Therefore, Officers recommend that a condition is included should planning permission be granted, for a lighting scheme to be submitted as per the requirements of the condition. This is in the interests of residential amenity.
- 10.47 Subject to the given conditions, Officers are satisfied that the proposed development would not cause significant material harm to the amenity of neighbouring residents, in accordance with the aims and objectives of LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

#### Highway issues

- 10.48 Turning to highway safety, Local Plan Policies LP21 and LP22 are relevant and seek to ensure that proposals do not have a detrimental impact on highway safety and provide sufficient parking. Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 10.49 The proposal seeks to utilise the existing access onto Scar Lane, opposite Britannia Road. The access onto Scar Lane is to be improved to facilitate the proposed intensification of use. This includes it being widened to a minimum of 6m and the creation of a 2.4m x 40m visibility splay at the site entrance/exit, associated parking and turning facilities will also be provided.
- 10.50 The proposals seek to erect four industrial units for E(g)(iii) (light industry) use and an additional 10 storage units. Within the submitted Transport Statement prepared by Via Solutions it states that *'it is assumed that the upper level of containers would be for office use whilst the lower level and the other six units would be for small industrial and warehousing uses'*.
- 10.51 The Transport Statement also goes on to say that:

*'A previous outline application (ref 2019 / 90373) for a similar development proposal was approved on 24th October 2019. This was for circa 1,370sqm gross of employment uses within 4 units.*

*This applicant seeks planning permission for the development of a commercial / employment use on the site. This is to take the form of six units in four blocks amounting to a total of 680sqm gross plus a total of 10 containers on two levels amounting to a total of 218sqm gross. Parking and turning areas are to be provided within the site...*

*...Vehicular access will be taken from the proposed site access onto Scar Lane.*

*Given the limited visibility to the west of site a speed survey was undertaken on 27th August 2018 for the previous approval to determine the required visibility to the west of site. The survey results showed that the 85th percentile wet weather speed of vehicles was 28.56mph which required a visibility splay of 2.4m X 40m visibility splay to the west.*

*This visibility splay can be achieved with the proposed alterations to Scar Lane to enhance visibility. These would narrow the effective carriageway on Scar Lane to provide the required visibility to the west.*

*At the proposed site access the overall carriageway width would reduce from 7.8m to 7.0m. The proposed gates will be set 16.5m into the site measured from the new edge of carriageway. The proposed site layout, road alterations and visibility splays are all as previously approved by the outline permission.*

*The internal layout will accommodate service refuse vehicles and emergency vehicles and all vehicles will be able to enter and leave the site in forward gear. A swept path analysis has been undertaken on the internal site layout based on the vehicles that will likely be utilised on site. This includes a 12m rigid vehicle turning around in the service yard and an 8.0m box van turning into the proposed upperlevel car park.*

*In terms of traffic generation, the same TRICs data has been used to calculate the level of traffic the proposed industrial development will generate. The traffic generations for the development will generate a total of 8 two-way vehicle trips within either of the peak hours.*

*The previously approved proposals on the site were for a slightly larger development and it was predicted that would generate a total of 13 two-way vehicle trips within either of the peak hours'.*

- 10.52 Given the nature of the proposals and the above assessment provided within the submitted Transport Statement, the Council's Highways Development Management Officers raised no objections to the scheme given that the gross floor area to be provided, and therefore the traffic generation that comes with it, would be reduced when compared to the previous 2019 approval, and that the layout and access improvement from Scar Lane are the same as previous. They do, however, request that the highways conditions required by the previously approved outline application (ref: 2019/90373) be repeated for this application. These conditions related to the submission of a Stage 1 Safety Audit and Designer's Response, a Schedule of the means of access for construction traffic, and a requirement that areas indicated for parking should be marked and laid out before the development is brought into use.
- 10.53 Subject to the recommended conditions, planning officers and highways officers are satisfied that the proposed development would not harm the safe and efficient operation of the highway and therefore would be in accordance with the aims and objectives of LP21 and LP22 of the Kirklees Local Plan, Chapter 9 of the National Planning Policy Framework and the Highways Design Guide SPD.

## Trees

- 10.54 Policy LP33 of the Kirklees Local Plan highlights that Local Planning Authorities should not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity.
- 10.55 As the proposals seek to remove several trees within the site, which benefit from the general protection granted by the site falling within a Conservation Area, the Council's Trees Officer was consulted. They noted that the proposals are similar to the previous outline application that was approved in 2019 (ref: 2019/90373), whereby the tree impacts are broadly the same and are deemed to be acceptable as the trees which are to be removed are considered to be of a low quality and their loss would be balanced against the proposed use of the site. Furthermore, the loss of trees towards the entrance would facilitate a better access arrangement and the trees adjacent to the end of Royal Terrace have been the cause of concern previously because of their unmanaged state.
- 10.56 The proposals also include detailed landscaping that seeks to provide for the replacement of trees lost amongst other things. The tree planting proposed totals 13 trees which are all to be silver birch – this could be improved by the introduction of a few other native species, but the Trees Officer is satisfied with the number of trees proposed and their planting specification.
- 10.57 Should planning permission be granted it is recommended that conditions of compliance to the tree protection and landscaping proposed be applied.

## Biodiversity

- 10.58 Paragraphs 174, 180, 181 and 182 of Chapter 15 of the National Planning Policy Framework are relevant, together with The Conservation of Habitats and Species Regulations 2017 which protect, by law, the habitat and animals of certain species including newts, bats and badgers.
- 10.59 Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance. Through LP30, development proposals are expected to:
- (i) *result in no significant loss or harm to biodiversity in Kirklees through avoidance, adequate mitigation or, as a last resort, compensatory measures secured through the establishment of a legally binding agreement;*
  - (ii) *minimise impact on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist;*
  - (iii) *safeguard and enhance the function and connectivity of the Kirklees Wildlife Habitat Network at a local and wider landscape-scale unless the loss of the site and its functional role within the network can be fully maintained or compensated for in the long term;*
  - (iv) *establish additional ecological links to the Kirklees Wildlife Habitat Network where opportunities exist; and*
  - (v) *incorporate biodiversity enhancement measures to reflect the priority habitats and species identified for the relevant Kirklees Biodiversity Opportunity Zone*

10.60 The application is supported by an Ecological Design Strategy and an Ecological Impact Assessment. These reports have been reviewed by the Council's Ecologist who, based on the information submitted has no objections to the application subject to conditions relating to:

- Submission of a lighting design strategy for biodiversity
- No site clearance works to take place between the 1<sup>st</sup> March and 31<sup>st</sup> August unless checked by a competent ecologist.
- The habitats on site will need to be accounted for in a biodiversity metric calculation and a 10% net gain achieved post-development. This should be in accordance with Kirklees Biodiversity Net Gain Technical Advice Note.
- The submitted Ecological Design Strategy should be implemented as part of the proposed scheme.

10.61 Without mitigation development the site has the potential to result in significant ecological harm through impacts to foraging/commuting bats, roosting bats, nesting birds, loss of woodland and the spread of Himalayan balsam. Officers are satisfied that the above conditions would be sufficient to ensure that the proposal both preserves and enhances the surrounding ecological environment, in accordance with LP30 of the Kirklees Local Plan and Chapter 15 of the NPPF.

#### Landscaping

10.62 In terms of landscaping, the applicant has submitted a Landscape Management Plan, Proposed Landscape Layout Plan and a Landscape Phasing Plan. These plans outline the works proposed throughout the site which includes the provision of 2m high acoustic fencing to the south of the site directing adjacent to the back garden of no. 18 Royal Terrace, an Amco car barrier along the northern boundary of the site between Units 5 and 6, and a 1.8m high green palisade fence around the entire boundary of the site.

10.63 A number of trees are to be retained, with the removal of nine trees to help facilitate the development. 13 replacement trees are proposed to be planted towards the front entrance of the site, and around the access from the 'lower level' to the 'upper level' of the site. Permeable gravel is also proposed to the side of Unit 6.

10.64 Within the submitted phasing plan, a landscape timetable outlines when the works are to be undertaken, this would be across three phases of between four months – 16 months.

10.65 As outlined within the Landscape Management Plan, until private areas are conveyed or the Management Companies take over, Dag Services Ltd will be responsible for maintaining all of the areas outlined within the Landscape Phasing Plan and Layout Plan.

#### Drainage

10.66 Local Plan Policies LP24, LP27 and LP28 are relevant to flood risk and drainage, as is Chapter 14 of the NPPF.

- 10.67 NPPF paragraph 159 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.
- 10.68 Although the site is within Flood Zone 1 and is less than 1 hectare, and therefore a Flood Risk Assessment is not required under the NPPF, the site does have a specific issue in respect to surface water.
- 10.69 Whilst LLFA Officers did have initial concerns in respect to how the flow routes through the site would be maintained, unobstructed and that buildings would remain safe pre- and post-development, following the submission of further details, the LLFA are now satisfied that surface water flood routing has been dealt with within Drainage General Arrangement Plan LM22250-DYSE-XX-ZZ-DR-C-1001 P01. Whilst Officers welcome the submitted micro drainage calculations, they do still have some concerns in respect of the use of 100mm pipes for surface water drainage and seek validation of existing levels of the public combined sewer to verify that a viable connection point can be gained, therefore conditions are required to cover these issues should planning permission be granted.
- 10.70 Officers also raise concerns over the operation of a petrol or oil interceptor given that in storm conditions it would be surcharged. However, this can also be dealt with via condition. In addition, the use of crate storage is not recommended for maintenance and management reasons, therefore a detail of the final design for attenuation would also be required alongside information relating to further protection of pipework which has less than 1.2m cover. Again, these would be addressed via condition.
- 10.71 Considering the above, subject to the proposed conditions and securing management and maintenance arrangements via the recommended Section 106 agreement, the proposal is considered by Officers and the LFFA to comply with the aims and objectives of LP24, LP27 and LP28 of the Kirklees Local Plan and Chapter 14 of the NPPF.

#### Adjacent railway infrastructure

- 10.72 The site is adjacent to the railway network. Whilst no comments have been received from Network Rail, they did previously provide comments within pre-application ref: 2021/20146, which was for a similar scheme at the application site. Whilst Network Rail did not object to the proposed development, they did however, in the interests of safety, their operational needs and the integrity of the railway, request several informative notes and conditions to be relayed, if the council is minded to approve planning permission. These included the following:
- Drainage condition, ensuring that water flow and/or attenuation features are directed away from Network Rail land.
  - Erection of boundary fencing, as the proposal is likely to increase the risk of access/trespass onto the railway.
  - Armco barriers, in locations where construction vehicles would be close to the railway land.

- Construction methodology, to be submitted to Network Rail outlining how the construction will be managed to avoid interfering with the operation of the railway.
- Lighting strategy, to avoid the potential for lighting to dazzle passing train drivers.
- Landscaping, to avoid potentially harmful planting adjacent to the railway.

10.73 Officers are satisfied that each of these matters are material planning considerations and therefore the requested conditions are considered to be acceptable, passing the six tests for planning conditions, in the interest of safety, the operation needs and integrity of the railway.

#### Land contamination

10.74 With regard to land quality, paragraphs 174, 183 and 184 of the National Planning Policy Framework and policy LP53 of the Kirklees Local Plan which seeks to ensure land quality and stability is maintained as part of new development.

10.75 The site is identified by Environmental Health officers as potentially contaminated land due to its previous use as Goods Shed, Works and Sidings (map ref: 263/9). Pre-commencement conditions are therefore requested in respect to the applicant submitting a Phase 1 Preliminary Risk Assessment, Phase 2 Intrusive Site Investigation Report, the submission of a Remediation Strategy and implementation of the Remediation Strategy and finally the submission of a validation report. The implementation of these conditions is deemed to be sufficient to comply with the aims of LP53 of the Kirklees Local Plan and Chapter 15 of the NPPF.

#### Climate change and air quality

10.76 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.

10.77 In accordance with Government guidance on air quality mitigation, outlined within the NPPG and Chapter 15 of the NPPF, policies LP24(d) and LP51 of the Kirklees Local Plan and the West Yorkshire Low Emission Strategy Planning Guidance which seeks to mitigate against Air Quality harm. Given the scale and nature of the development Officers seek the provision of electric vehicle charging points at a rate of 10% of proposed parking spaces. The purpose of this is to promote modes of transport with low impact on air quality.

10.78 It is also noted that within the submitted Design and Access Statement there is reference to the buildings being constructed using locally sourced materials. In addition, the buildings would as a minimum be constructed to the latest Building Regulations standards which would include efficient heating and thermal elements within the buildings.

## **11.0 Conclusion:**

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

11.2 This application has been assessed against relevant policies in the development plan and other material considerations. The proposal seeks an employment generating use within an existing Priority Employment Area (PEA), which would not prejudice the existing use/re-development of the wider PEA. Therefore, the principle of development is considered to be acceptable.

11.3 Officers have considered the impact on residential properties nearby, whereby any potential harm would be suitably mitigated through conditions outlined below. Furthermore, the wider area has a mix of uses including industrial and commercial, therefore the proposed use is not out of context with the area. The design and appearance of the proposed units is considered acceptable, including in the context of the historic environment. It is also considered that the proposed access and highway impacts have been assessed to be acceptable, and that the scheme would not result in any undue drainage/flood risk impacts. Other planning issues, such as ecology and protected trees, have been assessed and identified not to be materially impacted upon. Overall, the proposal would see the redevelopment of a vacant piece of land and would represent a significant investment into the area, providing new jobs, which is welcomed. As such, the scheme accords with the purposes of the Kirklees Local Plan, National Planning Policy Framework and relevant Supplementary Planning Documents.

11.4 Taking the above into account, it is considered that the proposed development would constitute sustainable development and is therefore recommended for approval.

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

- 1) Time limit (three years)**
- 2) Development in accordance with the approved plans**
- 3) Noise Impact Assessment**
- 4) Hours of use of the site (including deliveries and opening times)**
- 5) Contaminated land investigation conditions**
- 6) Submission of a Lighting Strategy – outlining hours of operation and candelas (Environmental Health)**
- 7) Tree Protection – in accordance with the submitted Arboricultural Method Statement**
- 8) Implementation of Landscape Management Plan for a period of five years**

- 9) **Submission of a Construction Environmental Management Plan (including a schedule of the means of access to the site for construction traffic), and engagement with residents prior to submission**
- 10) **Submission of a Stage 1 Safety Audit and Designer's Response**
- 11) **Submission of a scheme detailing foul, surface water and land drainage**
- 12) **Site developed with separate systems of drainage for foul and surface water on and off site**
- 13) **Submission of a drainage scheme to restrict the rate of surface water discharge from the site**
- 14) **Submission of a drainage scheme which details temporary surface water drainage for the construction phase**
- 15) **Submission of a Lighting Strategy (Biodiversity)**
- 16) **Submission and approval of samples of external materials**
- 17) **No site clearance between 1<sup>st</sup> March and 31<sup>st</sup> August unless checked by a competent ecologist and approved by the Council**
- 18) **10% net gain to be achieved post-development in accordance with the Kirklees Biodiversity Net Gain Technical Advice Note**
- 19) **Implementation of the submitted Ecological Design Strategy**
- 20) **Conditions requested from Network Rail**
- 21) **Provision of electric vehicle charging points**
- 22) **Submission of details of hard landscaping throughout the site, including retention of stone setts to the entrance of the site**
- 23) **Stone boundary wall at the site entrance to be retained (if this cannot be retained it should be rebuilt to match the layout and materials of the existing wall)**

Advisory notes, as requested by consultees including Network Rail.

### **Background Papers:**

Application and history files.

[Planning application details | Kirklees Council](https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022/91789)  
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Certificate of Ownership – Certificate A signed.