
Report of the Head of Planning and Development

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 19-Oct-2023

Subject: Planning Application 2023/90876 Variation of conditions 4 & 5 (hours of use) on previous permission 2018/93872 for replacement of existing Redgra track with 3G synthetic turf pitch consisting spectator area, perimeter fencing, floodlights, storage container and link path Colne Valley High School, Gillroyd Lane, Linthwaite, Huddersfield, HD7 5SP

APPLICANT

Lee Richardson, Colne
Valley High School

DATE VALID

20-Mar-2023

TARGET DATE

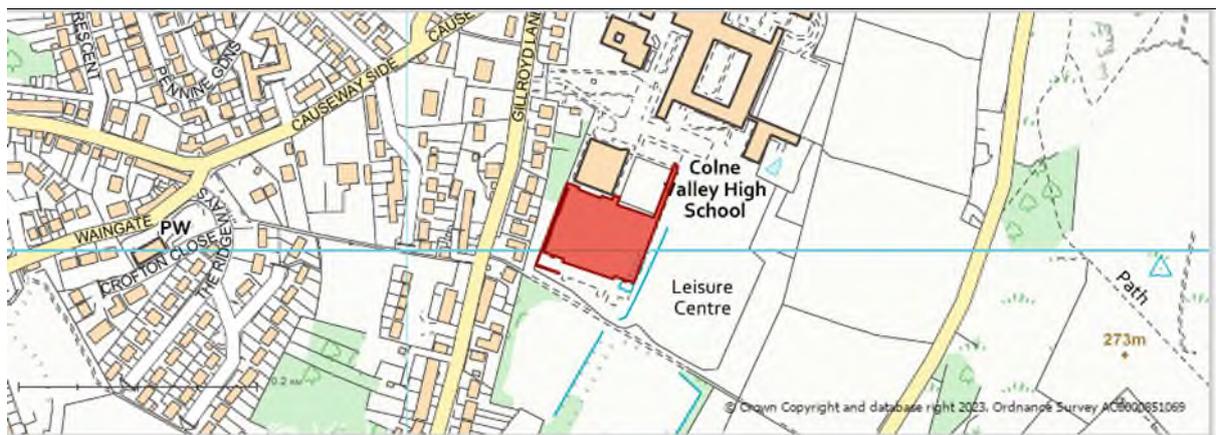
15-May-2023

EXTENSION EXPIRY DATE

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

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Colne Valley

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

DELEGATE refusal of the application for the following reason:

1. The proposal, to extend the hours of use of the 3G synthetic turf pitch, would have a detrimental impact upon the residential amenity of nearby properties as a result of noise, through voice and ball strike and use of artificial lighting at unsocial hours. This is contrary to Policies LP24 (b) and LP52 of the Kirklees Local Plan and those within Chapter 15 of the National Planning Policy Framework.

1.0 INTRODUCTION:

1.1 This application is brought to committee at the request of Ward Cllr Harry McCarthy, for the following reasons:

‘There is a clear need for the increased sports provision that this application would grant, and there would be a loss of provision if it was not granted. If this application is rejected, it will conflict with the NPPF’s objectives to promote healthy and safe communities: by preventing provision of local sports facilities which enable and support healthy lifestyles, by not providing the recreational facilities our community needs, and by any by reducing access to open spaces and opportunities for sport and physical activity.

There is a clear need for extension of hours, as currently there is not enough capacity to support local football and sports clubs in the local area. Local football clubs have explored other provision locally, for example utilising natural grass pitches (NGPs) owned by other local schools, however this has proved to not be feasible, and by using pitches outside of the local area. Without the extension of hours, a local football club has informed us that they may have to fold a number of their teams.

There are significant capacity shortages across most pitch types in Kirklees, including artificial grass pitches (AGPs), and this issue will worsen over time with housing growth. This has been illustrated in Kirklees Council’s Playing Pitch Strategy adopted in 2015, and in subsequent work since the previous planning decision. Paragraph 98 of the NPPF states that “planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities” and plans should seek to accommodate what provision is needed.

The Playing Pitch Strategy recommended that floodlit artificial grass pitches are required to address shortfalls in provision. Artificial grass pitches do not have the same capacity restraints that natural grass pitches have, and can be programmed to accommodate significant amounts of match play and training. AGPs also relieve pressure on natural grass pitches. Local Natural Grass Pitches have proved unsuitable for use by local football clubs.

The peak times for community use of artificial grass pitches are weekday evenings and weekends. If community groups and sports clubs are unable to use these facilities because there are planning restrictions in place during these times, there is a direct impact on community sport.

Sport England have illustrated in their response that curtailment of hours can impact on the sustainability of AGPs. If the school cannot use revenue from community use for routine maintenance there is doubt that the surface, which has a finite lifespan, can be replaced.'

- 1.2 The Chair of the Sub-Committee has confirmed that the reasons for the referral to the committee by Cllr Harry McCarthy are valid having regard to the Councillor's Protocol for Planning Committees.

2.0 SITE AND SURROUNDINGS:

2.1 The application relates to part of the Colne Valley High School grounds, formerly a 'Redgra' area and which has been redeveloped with a '3g' artificial surface sports pitch. This is located to the rear of the existing Sports Centre building on this site. North-west of the application site are residential properties along Gillroyd Lane/The Rock which are separated with a landscaped strip and at a lower ground level. Open land and school grounds adjoin the remainder of the other site boundaries. The whole of the school premise is served by a controlled access from Gillroyd Lane.

2.2 In relation to neighbouring properties, the nearest residential properties to the west of the site are at the following distances (note: all measurements are at the rearmost point of the property and the acoustic fence of the sports pitch):

- No.191 Gillroyd Lane – 13.3m
- No.189 Gillroyd Lane – 14.1m
- No.187 Gillroyd Lane – 21.2m
- No.185 Gillroyd Lane – 22m
- No.183 Gillroyd Lane – 22.2m

2.3 The pitch is at an elevated position in relation to the residential properties to the west such that the first floor windows to the rear of these properties are at the same / similar level as the pitch.

3.0 PROPOSAL:

- 3.1 Submitted under Section 73 of the Town and Country Planning Act 1990 (as amended), this application seeks permission for the variation of condition 4 (Hours) on previous permission 2018/93872 replacement of existing Redgra track with 3G synthetic turf pitch consisting of spectator area, perimeter fencing, floodlights, storage container and link path.

- 3.2 Condition no.4 & 5 permits hours of use for the sports pitch of 8.00am – 6.30pm Monday to Saturday.
- 3.3 The reasons for the conditions are in the interest of amenities of the nearby occupiers of the residential properties on The Rock/Gillroyd Lane, west of the site, to prevent noise (through voice and ball strike) and light pollution at unsocial hours and to comply with Policies LP24 and LP52 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.
- 3.4 The submitted application form set out the hours for which they wished to alter condition no.4 to permit hours of use of 09.00 – 21.00 Monday to Friday and 09:00 – 14:00 on Saturday and Sunday in any given week of the year other than on a day which falls on a bank holiday.
- 3.5 It is worth noting that the hours of use have recently been applied to be extended to 08:00 – 21:30 on a 7 day basis (detailed in the planning history section of this report). This application is a reduction in the hours the subject of the recent refusal (2021/93796) although is still seeking to extend the hours in the evenings on 5 days a week and to include Sunday hours for the pitch.
- 3.6 The application has been submitted with accompanying details of the original application in relation to noise and lighting, as well as the following:
- Linthwaite Football Club letter dated Monday 20th March 2023
 - Letter from occupiers of 179 Gillroyd Lane
 - Linthwaite football club statement
 - Former Cllr Warner Email dated 20th March 2023
 - Letter dated 20th March 2022 from Member of Parliament - Jason McCartney MP
 - Statement from Golcar United FC
- 3.7 In summary, the above listed documents detail that anti social behaviour is taking place at the site, at the times for which consent is being sought to use the site. In addition, the listed documents set out that the proposal would bring beneficial impact to all ages in relation to increasing access to facilities which promote active and healthy lifestyles.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 The most relevant planning history for the site relates to the following: -

2021/93796 – Variation of condition 4 (Hours) on previous permission 2018/93872 replacement of existing Redgra track with 3G synthetic turf pitch consisting spectator area, perimeter fencing, floodlights, storage container and link path – **Refused** 21st January 2022 for the following reason:

‘The proposal to extend the hours of use of the 3G synthetic turf pitch would have a detrimental impact upon the residential amenity of nearby properties as a result of noise, through voice and ball strike at unsocial hours, contrary to Policies LP24 (b) and LP52 of the Kirklees Local Plan and those within Chapter 15 of the National Planning Policy Framework.’

4.2 A subsequent appeal to this refusal was lodged (ref: APP/Z4718/W/22/3291359) and was dismissed on 11th July 2022. This application and the appeal decision can be viewed [here: Planning application details | Kirklees Council](#)

4.3 Other relevant planning history relates to the initial grant of permission for the pitch, details as follows:

2018/93872 – Replacement of existing Redgra track with 3G synthetic turf pitch consisting of spectator area, perimeter fencing, floodlights, storage container and link path – **Approved** 11th April 2019

4.4 This application can be viewed [here: Planning application details | Kirklees Council](#)

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

5.1 Confirmation was sought with the applicant, in relation to whether extending the hours (for a trial period only) for use on Sunday mornings. Such a trial period extension of the hours would allow for noise monitoring to be undertaken for the duration of the trial period. It was subsequently confirmed that the application is to be determined on the basis of the hours as requested in the submission documents.

6.0 PLANNING POLICY:

6.1 The site is Green Belt on the Kirklees Local Plan.

6.2 The following allocation and policies were considered relevant to the consideration of consent:

Kirklees Local Plan

LP24 – Design

LP21 – Highway safety and access

LP47 – Healthy, active and safe lifestyles

LP48 – Community facilities and services

LP50 – sport and physical activity

LP52 – Protection and improvement of environmental quality

LP56 – facilities for outdoor sport, outdoor recreation and cemeteries

National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) at the time of determination the application was assessed against the version of the NPPF which was published 19th February 2019. The assessment of this application is against the version of the NPPF published on 5th September 2023, although it is considered that insofar as it is relevant to the consideration of this application there has not been a significant amendment to the NPPF.

The Planning Practice Guidance Suite (PPGS) first launched 6th 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 8 – promoting healthy and safe communities

Chapter 12 – Achieving well-designed places

Chapter 13 –protecting Green Belt Land

Chapter 15 - Conserving and enhancing the natural environment

Legislation

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

- 6.3 Insofar as they are relevant to the consideration of this application the following 'Assessment' makes reference to the applicable policy / legislation.

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The Council are currently undertaking the legal statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. As such, this application has been publicised via neighbour notification letters / site notice / newspaper advertisement.

Letters of Objection

- 7.2 One letter of objection has been received, raising the following, summarised, concerns:
- The noise from the existing development is creates significant noise
 - Unable to enjoy use of external areas due to noise
 - Noise can be heard within dwellings nearby
 - There has not been consultation with neighbours by the applicant

Letters of Support

- 7.3 Two letters of support have been received, raising the following summarised points in support of the proposal:
- Benefits of sport and physical activity can build a lifetime habit of participation Short sighted to not allow increased use which will lead to increased instances of anti-social behaviour, misuse of alcohol, criminal damage and no doubt further criminality.
 - Local sports clubs need access to much needed facilities in order to help children and young people develop resilience, determination and self-belief, and instilling values and virtues such as friendship and fair play.
 - It can help children and young people to connect with their peers, tackling loneliness and social isolation and building stronger communities.

Letters of Comment

None

- 7.4 It should be noted that the description of development made reference to hours of use but only condition 4. The updated description also makes reference to condition 5 however it is not considered necessary to re advertise this and the description of development as advertised adequately alerted the public as to the nature of the proposal.

8.0 CONSULTATION RESPONSES:

- 8.1 The following consultations have been undertaken for this application with the summarised responses listed below.

KC Environmental Health – Does not support the proposed additional hours.

Sport England – Support the proposed development.

- 8.2 Whilst not a statutory consultee for this type of application, as per the definition set out in the Town and Country Planning (Development Management Procedure) Order 2015 (as amended), Sport England requested they be consulted in relation to the proposed hours and subsequently provided comments.

- 8.3 The responses of the above consultees are discussed in greater length within the 'Assessment' section of this report.

9.0 MAIN ISSUES

- Principle of development
- Amenity issues
- Review of Conditions

10.0 APPRAISAL

Principle of development

- 10.1 This Section 73 application seeks to amend the hours of use of the development permitted by consent 2018/93872.

- 10.2 It is considered that the key determining issue in the consideration of this application is the impact upon residential amenity. The National Planning Policy Framework is not considered to have been amended significantly with regard to the determining issue considered applicable in this case.

- 10.3 The determining issue is assessed as follows: -

Amenity issues

- 10.4 Paragraph 185 of the NPPF, contained within Chapter 15, sets out that proposals should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life. This is echoed within Kirklees Local Plan Policy LP24 which states that: -

‘Proposals should provide a high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings and the creation of development-free buffer zones between housing and employment uses incorporating means of screening where necessary’.

- 10.5 Policy LP52 is considered to be of relevance and sets out that development which has the potential to increase pollution from noise must be accompanied by evidence to show that the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, so as to ensure it does not reduce the quality of life and well-being of people to an unacceptable level.
- 10.6 During the consideration of the original application for permission for the pitch (2018/93872) extensive negotiations took place and sought appropriate fencing, floodlighting and hours of use for the proposed enhanced pitch to alleviate any potential concerns which may arise from an intensified use of the area. The principal reason for this was on the grounds of residential amenity and to balance the amenities of nearby residents with the positive outcomes to health and wellbeing the provision of the artificial pitch would bring.
- 10.7 In the most recent consultation response provided by Environmental Health on the original application, dated 25th March 2019, it was set out that they had previously expressed concerns regarding the potential of noise from the use of the pitch affecting residents of nearby premises. The response goes on to detail that the applicant has now provided revised proposals to reduce the likelihood of any significant adverse noise impact by revising the hours of use and the acoustic barrier and pitch perimeter fencing arrangements. Reference is made to a letter from Mrs Dobrucki, Finance Director of the MFS Academies Trust and a document MUK1973 - Colne Valley High School, Proposed Usage propose use of the pitch from 08:00 to 18:30 Monday to Saturday with no use on Sundays.
- 10.8 Within the response of the Environmental Health Team for this application, they set out that within their comments under the original application concerns were raised about the effect the proposal would have on the amenity of neighbouring properties and following discussion and negotiation the hours as conditioned upon permission 2018/93872 were agreed.
- 10.9 The go on to state that they continue to take the stance that any extension of these hours will likely have an impact on the amenity of the neighbouring properties and therefore they do not support the variation.

10.10 Sport England have requested they are consulted about this proposal, whilst not a statutory consultee as per the definition set out in the Town and Country Planning (Development Management Procedure) Order 2015 (as amended), their request was followed up with a letter to them inviting comments. They responded with a letter of support which sets out the following points:

- Since the original decision was taken the Council has undertaken further work to understand the adequacy of playing pitch provision across football, rugby (league and union) cricket and hockey in Kirklees. The picture has been consistent between the Playing Pitch Strategy undertaken in 2015 and the current iteration (which has reached final draft stage) in that there are significant capacity shortages across most pitch types in most parts of Kirklees which will worsen with planned housing growth. The PPS is a Council document and its recommendations have been agreed at Cabinet.
- In light of the above both strategies have recommended that a significant number of floodlit artificial grass pitches are needed to help address the shortfalls. Artificial grass pitches do not have the capacity constraints that grass pitches have and can be programmed to accommodate significant amounts of match-play and training. Because AGPs relieve the pressure on natural grass pitches, the latter can be given time to rest and regenerate thus improving their capacity for use.
- AGPs however do not fulfil their potential if their use is significantly constrained by restrictive planning conditions. Peak times for community use are weekday evenings and weekends. Curtailment of hours in these periods directly impacts on their value for community sport.
- Curtailment of hours of use also impacts on the sustainability of the AGP. Such facilities need routine maintenance and as the surface has a finite lifespan the establishment of a sinking fund is needed to replace their carpet. If the school cannot use revenue from community use to create a sinking fund then there will be doubt as to how the surface can be replaced.

10.11 Links to guidance documents about life cycle costs, acoustics and lighting is provided within the consultation response. As this proposal relates to extension to the hours of use which are in place to control noise, it is considered this guidance is not of relevance in the consideration of this application.

10.12 With regard to the 'AGP Acoustics – Planning Implications' document referred to by Sport England, this provides general guidance and advice about sound levels and that resultant noise should not exceed 50 decibels experienced by residential properties. The guidance provides general advice in relation to proximity and provides a concluding statement that with suitable noise mitigation measures, it is considered that acceptable noise levels can be achieved for the majority of AGP sites and will operate without adversely affecting neighbouring residential properties.

10.13 With regard to the life cycle costs document submitted, this is a general guidance document which provides estimated percentage amounts which would need to be allocated from the Sinking Fund to anticipated costs as a result from use for Football, Hockey, Rugby League & Rugby Union.

10.14 The response of Sport England provides the following concluding statement:

'Noise and light pollution are common issues that need consideration in the development and on-going use of floodlit AGPs. Sport England has developed guidance for Planning and Environmental Health professionals on assessing the noise and light associated with AGPs using established thresholds and identifying potential mitigation measures. The application includes detailed analysis of the potential additional hours of use against identified thresholds from both guidance documents. It is therefore both perplexing and disappointing that the Council's Environmental Health Officer has not given similar regard to such pertinent guidance in their application response.'

10.15 In respect to maintenance costs provided by the sinking fund it stands to reason that whilst increased use would increase funds collected, and therefore increase the size of the sinking fund, the increased use would increase the maintenance burden too. The document submitted refers to percentage amounts to be allocated from the sinking fund to anticipated maintenance costs rather than a figure or amount which needs to be reached to ensure the maintenance of the development can be undertaken. As such it is considered that limited weight can be afforded this matter.

10.16 It is clear in this case there are competing pressures surrounding the use of the land, it is unfortunate the AGP is sited on this part of the school site, immediately adjacent to residential properties whereby the uses are not wholly compatible with one another.

10.17 A balance has been struck already by the granting of planning permission in 2019 (ref: 2018/93872) which allowed for the construction of the pitch subject to conditions which restrict the hours of use. The 2019 consent was granted on the basis of extensive negotiations with the Environmental Health Team, the applicants and LPA, there was submission of a number of documents and details including acoustic fencing detail and noise assessments (which has been submitted again as part of this S73 application).

10.18 The 2021 application to extend the hours of use and subsequent appeal is a material consideration which weighs against the granting of permission in this case given the findings of the Inspector in that case whereby they set out the following:

'The original application was supported by a Noise Impact Assessment1 (the 'NIA') which indicated that the original proposal would ensure appropriate noise levels for nearby gardens and habitable rooms. The NIA does however acknowledge that noise levels may exceed the stipulated criteria at times and moreover, it did not consider the use of the pitch during the hours now sought. The NIA also did not take into account the current conditions of the appeal site, namely any specific effects of the acoustic boundary. As such, there is no conclusive evidence before me to indicate that the noise levels which could be generated by the use of the pitch during the extended hours would be compatible with existing noise levels in the evenings and weekends, when background noise levels are likely to be lower'

- 10.19 As previously stated there has not been the submission of further noise assessment, the conclusions of the Inspectorate that noise levels generated by the use would be incompatible with evenings and weekends given background noise levels would likely be lower is considered to be a logical conclusion to be drawn. Whilst the hours the subject of the 2021 application were longer than those being applied for now, the conclusion of the Inspectorate (in relation to noise) in their consideration of the appeal to the refusal of that application is still considered of relevance.
- 10.20 In this case there is support expressed by the applicant from local ward members and also from Sport England as well as other members of the public.
- 10.21 There is a clear benefit in the extended use of the pitch insofar as it can promote active and healthy lifestyles and increased access to such facilities is considered to be beneficial to the wider community. However, this has to be balanced against the residential amenity of neighbouring occupiers. It is noted residents have objected to both applications to extend the hours, and stated in those objections that noise from the use of the pitch is noticeable to them.
- 10.22 There has been extensive investigation and discussion undertaken in relation to noise impact, during the processing and subsequent determination of the 2019 consent, for which this application seeks to vary condition 4 (hours of use). This is confirmed in the response of the Environmental Health Team provided for this application.
- 10.23 It is considered that the maximum the use can considered to be acceptable has been granted permission by the 2019 consent. The current balance of the impact as a result of noise and benefits to allow opportunities and promote healthy and active lifestyles is considered to be acceptable only on the basis of restrictive condition no.4 which is in place on the 2019 permission.
- 10.24 It is considered that to allow extended hours of the use permitted by the 2019 permission would tip this balance disproportionately against the residential amenity of neighbouring occupiers for which there are not considered to be any material considerations which indicate a different approach should be undertaken in this case by the LPA. This also takes into account the balance referred to in the Inspectors' decision letter pursuant to the 2021 application:

"I acknowledge that the increased hours of use proposed may benefit sports groups in the local community by providing more hours/days to use the pitch. I afford this matter moderate weight, given the importance the Framework places on achieving healthy communities by enabling and supporting healthy lifestyles through the provision of sports facilities.

However, I have found that the proposal would be likely to harm the living conditions of nearby occupiers, resulting in conflict with the development plan as a whole, to which I afford substantial weight. Therefore, material considerations do not indicate that a decision should be made other than in accordance with the development plan"

10.25 Weighing up the planning history of this site, including the Inspectorate's decision upon the 2021 application, the content of third-party representations and consultee responses, it is concluded that in this case the proposed additional hours of use would have an unacceptably adverse and harmful impact upon the residential amenity of neighbouring occupiers as a result of additional noise, contrary to policies LP24 (b) and LP52 of the KLP as well as chapter 15 of the NPPF.

Review of conditions

10.26 In the instance of any grant of approval of a S73 application a new consent is issued by the LPA, as such all conditions upon the original consent are required to be reviewed and where necessary re applied or amended.

10.27 Whilst the recommendation is for refusal, it is considered that for completeness a summary of the conditions in the event of an approval, and their re wording or inclusion upon any grant of permission (as necessary), be included here:

Condition no.1 (Time limit)

10.28 As this condition relates to the timeframe to commence the development inclusion of this condition would not be necessary.

Condition no.2 (plans list)

10.29 It is considered the plans list table referred to within this condition would need to be re worded to make reference to the original consent (ref: 2018/93872) as well as worded to make reference to the details submitted as part of this application.

Condition no.3 (Community use agreement)

10.30 This condition has not been discharged, therefore this condition would be recommended to be re worded to require a scheme to be submitted and approved in writing by the LPA within a 3 month period of the date of determination. The submitted scheme would need to provide detail of pricing policy, hours of use, access by non-school users, management responsibilities and a mechanism for review.

Condition nos.4 & 5 (Hours of use including hours the lighting can be on)

10.31 The impact of amending these conditions is discussed at paragraphs 10.4 – 10.25.

Condition no.6

10.32 This condition would be re worded to make reference to the submitted detail and its continued retention.

11.0 CONCLUSION & RECOMMENDATION

- 11.1 There has been no significant change to the site allocation or national/local planning policy and guidance since the 2019 consent. Having regard to the detail submitted, subsequent discussions with the applicant and the Environmental Health Team as well as third party representation received it is recommended that the application be refused on the basis it would lead to a detrimental impact to neighbouring occupiers from resultant noise nuisance. Refusal for the reason set out at the beginning of this report is therefore recommended.

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=2023/90876>