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**Report of the Head of Strategic Investment****STRATEGIC PLANNING COMMITTEE****Date: 05-Jul-2018**

**Subject: Planning Application 2018/90802 Removal of condition 31 (B8 floorspace) and variation of conditions 23 (Residential) (Road Safety Audits) and 30 (Industrial) (Road Safety Audits) on previous application 2014/90688 for outline application for erection of commercial floorspace (B1c, B2, B8) including details of engineering operations to form serviced employment plots and full application for the erection of 166 dwellings Land at, Slipper Lane, Mirfield**

**APPLICANT**

Caddick Developments  
Ltd

**DATE VALID**

08-Mar-2018

**TARGET DATE**

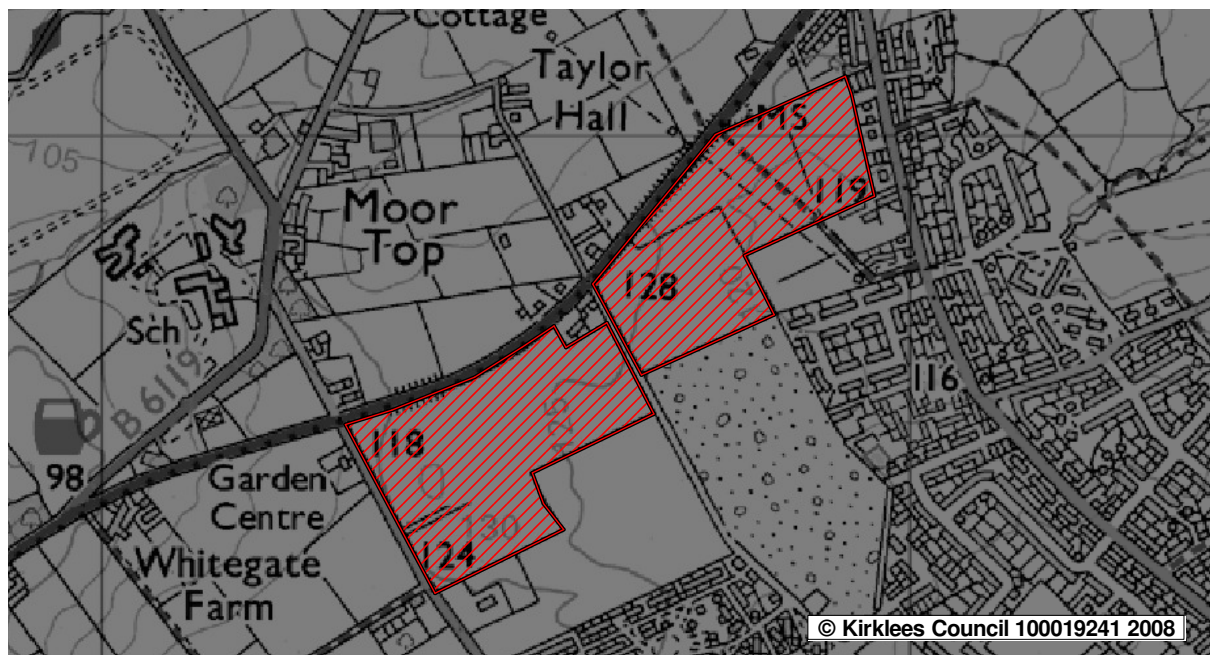
07-Jun-2018

**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.

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

**LOCATION PLAN**

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

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**Electoral Wards Affected:    Mirfield**

Yes

Ward Members consulted  
(referred to in report)

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## **RECOMMENDATION:**

**DELEGATE approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions including those contained within this report and to secure the variation of the S106 agreement detailed within this report.**

**In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Strategic Investment shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Strategic Investment is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.**

## **1.0    INTRODUCTION:**

1.1 This scheme is brought to Committee given the scale of the development and in accordance with the Delegation Agreement. Also at the request of Ward Members.

## **2.0    SITE AND SURROUNDINGS:**

2.1. The application site comprises land on the northern urban fringe of Mirfield and consists of 12.38 hectares of land. The site has a frontage to Leeds Road (A62) and is bisected by Taylor Hall Lane. The site is bounded by Leeds Road to the north, by the rear of properties fronting Sunny Bank Road to the east, open fields, school playing fields and a former landfill site to the south and Slipper Lane to the west.

2.2 Taylor Hall Lane provides vehicular access from Leeds Road to a small group of cottages. Beyond this, it has been closed to vehicular traffic, but provides a pedestrian/cycle link. A public footpath also crosses the site from Sunny Bank Road to Leeds Road. Slipper Lane gives access from the south to residential properties; there is no direct access from Leeds Road via Slipper Lane.

2.3. To the west of Taylor Hall Lane, the site is largely flat, becoming dome shaped where it abuts Slipper Lane, with a level change of approximately 9 metres. To the east of Taylor Hall Lane the site falls uniformly from Leeds Road to the south east with a level change of approximately 10 metres. The site has the appearance of open fields.

## **3.0    PROPOSAL:**

- 3.1 There is an extant hybrid planning permission on this site under reference 2014/90688:

*Outline application for erection of commercial floor space (B1(c);B2 and B8) including details of engineering operations to form serviced employment plots and a full application for the erection of 166 dwellings.*

- 3.2 This approval was subject to a Section 106 Agreement.

- 3.3 The format of the decision notice is split detailing conditions between the full permission for the residential part and the outline permission for the industrial part.

- 3.4. The current application is for the Variation of 3 no conditions on the above Notice which are Conditions 31 and 30 (Industrial only) and condition 23 (residential only).

- 3.5 The relevant conditions are.

Condition 31 (Industrial only) states

*Notwithstanding the provisions of the Town and Country Planning Order (General Permitted Development) Order 2015 (as amended) the amount of B8 storage or distribution floorspace within the buildings hereby approved, as defined in the Schedule of the Town and Country Planning (Use Classes) order 1987 (as amended) or in any provision equivalent to that Class in any Statutory Instrument revoking or re-enacting that Order, shall not exceed 50% of the total floorspace provided by the development.*

Condition 30 (Industrial only) states:

*Within 3 months of the date of this permission a scheme detailing the following*

*off-site works, including the relevant Road Safety Audits (ref:CIHT guidelines on*

*Road Safety Audit(2008) has been submitted to and approved in writing by the*

*Local Planning Authority*

- *A62 / Sunny Bank Road Junction as set out on WSP drawing number 0467-S278-TS-005 Rev E.*
- *Three priority junctions to provide site access off the A62 as shown on WSP drawing number 1004/GA/01 Rev B.*

*The development shall not be brought into use until the all the works under the approved scheme have been carried out complete accordance with the approved scheme. These works shall thereafter be retained for the lifetime of the development.*

Condition 23(Residential only) states:

*Within 3 months of the date of this permission a scheme detailing the following off-site works, including the relevant Road Safety Audits (ref:CIHT guidelines on Road Safety Audit (2008) has been submitted to and approved in writing by the Local Planning Authority.*

- *A62 / Sunny Bank Road Junction as set out on WSP drawing number 0467-S278-TS-005 Rev E.*
- *Three priority junctions to provide site access off the A62 as shown on WSP drawing number 1004/GA/01 Rev B.*

*The development shall not be brought into use until the all the works under the approved scheme have been carried out complete accordance with the approved scheme. These works shall thereafter be retained for the lifetime of the development.*

Conditions 31 (Industrial only) and 23 (residential only) are identical, and the effect of varying conditions 23 and 30 is that there will be one vehicular access into the industrial part of the site as opposed to the previous two. The improvements to the Sunny Bank junction will not be affected.

3.6 The above permission 2014/90688 was subject to a Section 106 Agreement, which sought to ensure the delivery of the necessary 106 contributions relating to Education and POS, as required in the residential scheme. Also secured in this Section 106 are a series of infrastructure improvements to the surrounding highway network that are to be provided prior to the occupation of any dwellings. This also includes the provision of the approved access points to both the residential and industrial parts of the development, as well the following contributions

Church Lane contribution-(£25,000);  
Leeds Road Contribution-(£35,000);  
Stocks Bank Contribution-(£35,0000  
Robert town Contribution (£35,000) and  
Offsite drainage contribution (£30,0000).

3.7. These contributions and the improvements that they deliver are necessary to ensure the satisfactory development of both the residential and industrial parts of the scheme. Also the timing of their provision is such as to ensure that the industrial part of the site is brought forward as well as the residential.

3.7. If the above variations to the conditions are agreed, then it will be necessary to vary the existing Section 106.

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

2007/90423 – Outline application for B1 (Offices) and B2 (General Industry) and hotel. Withdrawn.

2008/90695 – Outline application for B1 (a, b, c) and B2 use within a Continuing Care Retirement Community and Ancillary A1 use together with means of access, landscaping and change of site levels. Approved.

2011/92428 - Erection of two B2 (general industrial) /B8 (storage & distribution) use buildings (14,100 sq.m in total) with ancillary B1 offices, formation of access, car parking, drainage proposals, landscaping and the erection of a 6m high acoustic fence, gate house, substation, site compound and temporary stockpiling of fill materials and top soil on land to the east of the proposed buildings. Approved

2012/93087 - Extension to time limit to previous permission 2008/90695 for outline application for B1 (A,B,) and B2 use within a continuing care retirement community and ancillary A1 use together with means of access, landscaping and change of site levels. Approved

2014/90688- Outline application for the erection of commercial floor space(B1c, B2 B8) including details of engineering operations to form serviced employment plots and full application for 166 dwellings .Approved subject to a Section 106 Agreement.

2018/90801 Reserved Matters application on industrial only scheme applying for access only. For determination on this agenda.

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

- 5.1 An updated Transport Assessment and additional information has been received, at the Councils request.
- 5.2 An indicative drainage strategy has been received
- 5.3 Revisions to the original Section 106 have been submitted and the variations agreed.

## **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 Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

### **Unitary Development Plan:**

**UDP allocation** – The majority of the application site is allocated for Business and Industry (Policy B2), with the eastern and western boundaries (and a small amount of the southern boundary) of the site allocated as Buffer Zones (Policy B3).

**BE1** – Good quality design

**BE2** – New development to be in keeping with surroundings

**BE11** – Materials  
**BE23** – New development should incorporate crime prevention measures  
**B1** – Employment needs  
**B2** – Allocation of land for business and industry  
**B3** – Buffer Zones  
**T10** – Highway safety  
**T16** – Pedestrian routes  
**T17** – Cycling provision  
**T19** – Parking standards  
**EP4** – Noise sensitive developments  
**EP6** – Noise levels  
**EP11** – Ecological landscaping  
**G6** – Contaminated land  
**NE9** – Trees

### **Emerging Local Plan**

The site is allocated as a mixed use development (MX19290) on the Emerging Local Plan.

PLP3 Location of new development  
PLP4 Providing infrastructure  
PLP8 Safeguarding employment land and premises  
PLP9 Supporting skilled and flexible communities and workforce.  
PLP20 Sustainable travel  
PLP21 Highway safety and access  
PLP24 Design  
PLP28 Drainage  
PLP52 Protection and improvement of environmental quality  
PLP53 Contaminated and unstable land.

### **National Planning Policy Framework (NPPF):**

‘Core Planning Principles’  
‘Decision taking’  
Part 1 Building a strong, competitive economy  
Part 4 Promoting sustainable transport  
Part 8 Promoting healthy communities  
Part 10 Meeting the challenge of climate change, flooding and coastal change  
Part 11 Conserving and enhancing the natural environment

### **Other guidance:**

SPD1 – Negotiating financial contributions for transport improvements  
SPD 2 Affordable Housing  
‘Providing for Education Needs Generated by New Housing’ (KMC Policy Guidance)

## **7.0 PUBLIC/LOCAL RESPONSE:**

7.1 This application has been publicised by site notices, neighbour letters and also in the local press.

To date there have been 18 letters of objection to the proposal the main concerns being:

- The traffic on Leeds Road, at peak times tails all the way back to Cooper Bridge, this development will make an already dire traffic situation worse.
- There are other brown field sites that should be used in advance of releasing this “green lung”.
- There are already employment units in the area, and not all are full. There is little demand for additional employment units.
- One objector lives opposite the residential scheme access and is concerned that headlights will cause disturbance.
- The new dwellings will cause unacceptable strain on the local infrastructure ie schools and doctors surgeries.
- Building in this semi-rural area sets an undesirable precedent for the future.
- The reduction in the number of accesses for the industrial only site from 2 -1 will result in an increase in traffic and additional heavy traffic that is not in the best interests of highway safety.

One letter of support has been received, stating the site is in a good location for housing with excellent transport links. The site is of little scenic merit

### Save Mirfield.

Object to the removal/ variation of Condition 31, as this site is located within a residential area, which is soon to be expanded. An increase in B8 development, which would include open storage, would not be appropriate.

Re the variation of conditions 23, and 30 ( ie 1 access point to the industrial development instead of 2)., Require further clarification of the applicants summary letter.

( NB Additional traffic information has been submitted, and posted on the website. And any further representations from Save Mirfield will be included within the update.

Mirfield Town Council- No response received.

## **8.0 CONSULTATION RESPONSES:**

8.1 **Statutory: KC Highways DM-** See Assessment

8.2 **Non-statutory:**

**Lead Local Flood Authority** expressed concern at the proposed drainage scheme.

NB This proposal does not impact upon the drainage strategy, and the Reserved Matters application 2018/90801 is only seeking approval for access not layout. Also there are conditions requiring the submission of a drainage strategy that have still to be discharged

## **9.0 MAIN ISSUES**

- The removal of B8 restrictions; and
- The formation of a single access to the industrial, estate, instead of two:
- The variation to the Section 106

## 10.0 APPRAISAL

### 10.1 Condition 31 (Industrial only)

10.2. The site was allocated for employment use on the Unitary Development Plan with a stipulation of Class B1 and B2 use only. As such the provision of any B8 use within the scheme was a departure from the UDP, and was advertised as such.

10.3. The rationale for excluding B8 from the allocation was given

*“On the basis that land for business and industry is a relatively scarce resource in Kirklees, it will be appropriate to seek to ensure that job densities achieved through the development of the allocated land are as high as possible, particularly on the larger greenfield sites. Potentially the most extensive land users achieving the lowest job densities are storage and distribution, which fall into class B8”.*

le the use of this site for B8 did not optimise its employment potential.

10.4 Notwithstanding the above, the application in 2014 /90688 was approved with the condition 30 allowing up to 50% of the site to be in B8 use. The reasoning for allowing this departure in considering 2014/90688 is relevant in this case.

10.5. Firstly, the UDP allocation dates back to the adoption of the UDP in 1999 and it is accepted that the nature of and necessity for B8 uses has changed since that time. Since the adoption of the UDP (IN 1999) a report commissioned by Yorkshire Forward 2009, entitled “Planning for Employment Land- “Translating Jobs into Land” to inform guidance to Local Planning Authorities on the assessment of future needs for employment. This report considered amongst other aspects, the employment density generated by business uses .It found that it is appropriate to consider all business uses together in this respect as:-

*“these uses operate largely in similar buildings and at similar densities- with the exception of the largest specialist units”*

Therefore the level of employment generated by B8 is generally considered to be compatible with that of B1 and B2 uses

10.6 Secondly the introduction of B8 uses within the scheme provides a degree of flexibility in securing end users for the site. Given the inclusion of B8 within the scheme has been demonstrated to have no impact of the level of employment generated, and the principle of allowing flexibility within the scheme has already been accepted In addition the Councils new evidence base demonstrates a need for more distribution and storage space, at a considerably greater level than projected B2 growth.

10.7. As such in terms of policy or up to date evidence as to the requirements within the district and the comparable employments levels between each of the uses, there is no justification for retaining the 50% restriction on the B8 use.

10.8. The reason for condition 31 in the decision notice states:

*“In the interests of restricting the amount of B8 floorspace within the development with respect to highway safety and in accordance with Unitary Development Plan policy T10, and the assessment below regarding the variation of conditions 30(residential) and 23(industrial ) deals with the highway justification for removing this condition.*



10.9 There is no longer any policy or highway justification for this condition and the restrictions it imposed, and its removal is acceptable. Given that the outline approval is for B1c, B2 and B8 there is no requirement to replace or reword it.

10.10. Conditions 30 (industrial only) and 23 (residential only)

10.11. The applicants have provided a revised Transport Assessment which includes assessment of the inter-peak (12.00 to 13.00) and the HGV traffic generation. In terms of HGV movements, the TRICs data base is used to calculate the HGV arrivals and departures based on all B8 use.

- AM peak  
1 IN and 34 OUT compared with 1 IN and 9 OUT for the consented permission giving an increase of 24 vehicles
- PM peak  
17 IN and 11 OUT compared with 5 IN and 5 OUT for the consented permission giving an increase of 18 vehicles
- Inter-peak (12.00 to 13.00) 3 IN and 7 OUT compared with 1 IN and 2 OUT for the consented permission giving an increase of 7 vehicles

10.12. The impact of HGV traffic on Sunny Bank Road is assessed as follows  
If all the site is developed as B8, during the morning peak hour the number of additional HGVs driving along the aforementioned road will be 10, during the evening peak, 3 morning peak, and during the selected inter-peak hour, 8

10.13. Splitting the available GFA between B1c/B2 and B8 uses will bring 8 additional HGVs to Sunny Bank Road during the morning peak, 2 during the evening peak, and 7 during the selected inter-peak hour.

10.14 Removing condition 31 could therefore result in an additional 2 HGVs in the AM peak, 1 in the PM peak and 1 in the inter-peak.

10.15. Modelling of the access junction with Leeds Road has been undertaken for this assessment because access arrangements have changed significantly from what was proposed in the 2014 TA (the two accesses have been amalgamated into one). However the adjacent two signalised junctions on Leeds Road have not been remodelled. It is considered that this is not necessary as the two junctions were modelled as part of the 2014 TA with trip generation levels higher than for the all B8 scenario presented in this TA, which is the most likely scenario to happen if restriction for using all the GFA for B8 purposes is lifted .

10.16. As such it is considered that a single junction for the industrial site has been justified, in the location identified on drawing no 1856-161. It is still necessary to revise the conditions to ensure the delivery of the 2 access points, as well as the improvements to Sunnybank Road as well as the Road Safety Audits. The varied condition(s) both 30(residential only) and 23(industrial only) will read:

“Within 3 months of the date of this permission a scheme detailing the following off-site works, including the relevant Road Safety Audits (ref:CIHT guidelines on Road Safety Audit (2008) has been submitted to and approved in writing by the Local Planning Authority.

- A62 / Sunny Bank Road Junction as set out on WSP drawing number 0467-S278-TS-005 Rev E.
- *Two priority junctions to provide site access off the A62 as shown on drawing numbers 1004/GA/01 Rev B(residential only) and 1856-161.(industrial only).*

The development shall not be brought into use until the all the works under the approved scheme have been carried out complete accordance with the approved scheme. These works shall thereafter be retained for the lifetime of the development.”

(The part of the condition varied is in italics)

10.17. Also on this agenda is a Reserved Matters application for the single industrial access (2018/90801). The location of this access has been justified in the paragraphs above specific details of the access point are dealt with in 2018/90801.

#### 10.18 Planning Obligation

10.19 If the variation of the conditions applied for above is agreed the existing Section 106 will need to be varied and signed prior to issuing the decision notice.

10.20 All of the contributions including towards highways and off site drainage improvements are still to be provided and the trigger points unaltered. The only change relates to the provision of the offsite drainage works (£30,000 contribution), which are to be provided before the occupation of the 30<sup>th</sup> dwelling. The change is in the “definition” of the drainage scheme, which now requires the applicant to submit a scheme to the Council, and the payment shall not be made until the scheme has been approved. The Local Planning Authority has no objections to the amended definition, as the timing of the drainage works delivery is not delayed.

#### Representations

10.21. A lot of the representations seem to object, once again to the principle of the site being developed at all. Clearly there is an extant permission, and also the site has been allocated a mixed use development in the Emerging Local Plan.

10.22 The substitution of one vehicular access instead of 2 has been justified, and is detailed in the Highways Assessment.

10.25. The removal of the B8 use been justified, not only in term of highways use, but also with reference to up to date information and survey work on how employment uses operate, which superseded the rationale behind some of

the B8 restrictions identified on the Kirklees Unitary Development Plan allocations.

- 10.26. Objections on the grounds that the use for B8 is inappropriate in this area, and in close proximity to dwellings is not justified, nor is the fact that some B8 warehouses may have external storage. No layout has been agreed yet, however appropriate screening and buffer zones between and surrounding the industrial site, have been agreed, and these will provide both a visual buffer as well as one that protect residential users potential nuisance from the employment site.

## **11.0 CONCLUSION**

- 11.1 The Variation of the above conditions has been justified, and does not prejudice the delivery of the industrial site, rather making its development more likely to come forward.
- 11.2 The Variation to the Section 106 necessary is very minor, and there is no reduction in terms of any contributions or delay in the timing of their provision.

## **2.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Strategic Investment)**

1. 3 years to start development
  2. Construct in accordance with approved plans
  - 3 Reworded conditions 23(residential); 30(industrial)
- Outline only
- 4 Res Matters ( siting , landscape, scale, appearance).
  5. Drainage
  6. Decontamination
  7. Noise levels on boundaries
  - 8 Lighting
  - 9 Arboricultural Method Statement
  10. Air Quality
  11. Travel Plan

### **Background Papers:**

Application and history files.

Website link to be inserted here

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