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

Subject: Planning Application 2018/90876 Variation conditions 2 (plans) and 15 (opening times) on previous permission 2017/91888 for change of use, alterations and extensions to former mill buildings to form mixed use development comprising of food manufacturing, cookery school, cafe, shop, restaurant, cooking demonstrations/tasting areas and management office/suite. Outdoor seating areas, service yard, parking and associated landscaping works. Woodlands Mill, Luke Lane, Thongsbridge, Holmfirth, HD9 7TB

APPLICANT

D & LS Developments
Ltd, C/O Agent

DATE VALID

15-Mar-2018

TARGET DATE

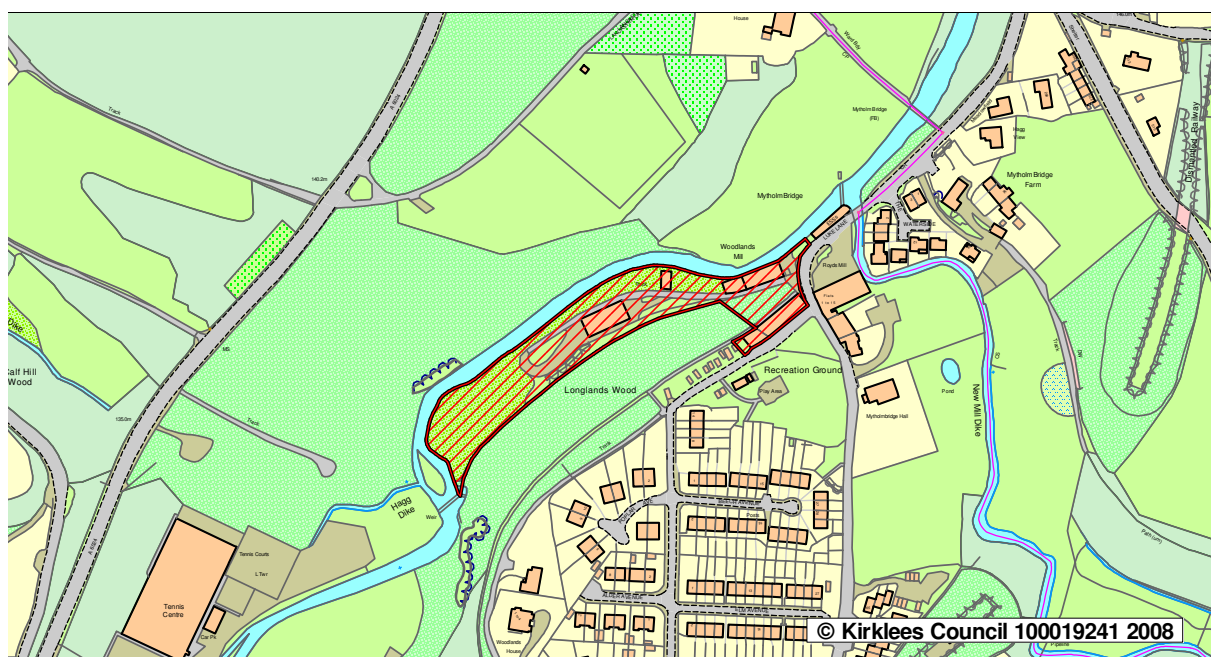
10-May-2018

EXTENSION EXPIRY DATE

09-Jul-2018

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

Electoral Wards Affected: Holme Valley South

☐ Yes

Ward Members consulted

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.

1.0 INTRODUCTION:

- 1.1 This Section 73 application has been brought to Strategic Planning Committee at the request of Cllr Patrick.
- 1.2 A related application (ref: 2018/90877) has also been brought to committee at Cllr Patrick's request.

2.0 SITE AND SURROUNDINGS:

- 2.1 This application relates to an irregular-shaped site, 0.9 hectares in size, located on the south bank of the River Holme. The site includes two stone-built former mill buildings (with extensions), and various boundary treatments. An open-sided portal frame building and a Nissen hut have recently been removed from the site.
- 2.2 The application site sits on a bend in Luke Lane. The site also abuts Woodlands Avenue. These roads, where they pass the site, lack formal pavements. The site has a single point of vehicular access (from Luke Lane) between the two former mill buildings. Public footpath HOL/50/50 runs through part of the site, and passes between the former mill buildings, joining Luke Lane close to the site's vehicular entrance.
- 2.3 The former mill buildings are currently vacant, having last been used in association with a woodturning business. The northern building (referred to in some application documents as a dyehouse) stands immediately adjacent to the River Holme is single storey, but has a raised roof and extensions. The southern building has a south elevation on Woodlands Avenue, is single-storey at its west end, and due to the site's topography rises to two storeys at its east end.
- 2.4 Several trees surround the site, and many are protected by Tree Preservation Orders.
- 2.5 To the east of the application site is Royd Mill, which rises to four storeys (not including its lower ground level car park) and has been converted to residential use. To the south is a public recreation ground, and residential properties

beyond. Dense woodland covers much of the land to the north and west of the application site. To the northeast, on the other side of the river, is the Holme Valley Camping and Caravan Park.

- 2.6 The site is within the green belt. It is not within a conservation area. The nearest listed building is the arched stone bridge to the east of the application site, which carries Luke Lane over New Mill Dike.

3.0 PROPOSAL:

- 3.1 The applicant proposes to vary conditions 2 (approved plans) and 15 (opening hours) of the previous permission (ref: 2017/91888) which was for the change of use, alterations and extensions to former mill buildings to form mixed use development comprising food manufacturing, cookery school, café, shop, restaurant, cooking demonstration/tasting areas and management offices/suite, with outdoor seating areas, service yard, parking and associated landscaping works.
- 3.2 Following the approval of that permission, the applicant has reconsidered the phasing of development at this site. Although the applicant still intends to implement phase 2 of the development (i.e., conversion of the southern building), this would occur at least two years after phase 1 (i.e., the conversion and extension of the northern building) has been completed.
- 3.3 Condition 2 of that permission currently states:

The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, in the interests of the protection of the openness and character of the Green Belt, local amenity, highway safety and to accord with Policies BE1, BE2, BE11, T10, T19 and EP6 of the Kirklees Unitary Development Plan, Policies PLP21, 22, 24, 57, 59 and 60 of the Kirklees Publication Draft Local Plan and Policies in the National Planning Policy Framework.

- 3.4 Condition 15 of that permission currently states:

The hereby approved development shall operate in accordance with the following hours of use:

*Northern Building: 0900 to 2000 any day of the week
Southern Building: 1000 to 2230 any day of the week
Deliveries or dispatches to or from the site: 0730 to 2000
Monday to Friday, 0800 to 1800 Saturdays, no deliveries
Sundays and Bank Holidays*

Reason: So as not to detract from the amenities of nearby residents and to accord with Policies EP4 and EP6 of the

3.5 In relation to condition 2 and the development's various uses, in an email dated 29/05/2018 the applicant summarised the changes to the northern building as follows:

- 1) A1 deli / retail reduced from 119sqm to 86sqm.
- 2) A3 café (main space) increased from 67sqm to 70sqm.
- 3) Phase I cookery school – no change.
- 4) B1 Service / manufacturing zone decreased from 80sqm to 58sqm.
- 5) A3 coffee bar / lounge area (or ancillary space to restaurant in the evening) – increased from 0sqm to 69sqm.
- 6) Ancillary space (toilets) increased from 32sqm to 44sqm.

3.6 No changes to the arrangement or mix of uses in the southern building are proposed.

3.7 Additional massing is proposed at the southwest corner of the northern building, and the previously-approved front extension to the northern building would be widened. These amendments would increase the approved size of the northern building by 26sqm.

3.8 Between the northern and southern buildings, where a turning and loading area and a small bin store were previously proposed, a “drop & go” layby, plant room and larger bin store are proposed.

3.9 To the west of the northern and southern buildings, the applicant proposes a reconfiguration of the main parking area, although the number of parking spaces here (42) would not change. The layout of the approved overspill parking area would also be amended, but would accommodate 53 vehicles, as previously. A turning space is also proposed between the northern building and the car parks, three disabled parking spaces are now proposed within the 42 spaces, and the open-sided portal frame building would be demolished. The parking areas would be moved southwards, providing more green space between the hard surfaces and the River Holme. Treeplanting previously proposed to the south of the open-sided portal frame building is now proposed elsewhere on the site.

3.10 In relation to condition 15, the following changes are proposed:

- Northern building – Approved hours: 09:00 to 20:00 any day. Proposed: 09:30 to 22:30 any day.
- Southern building – Approved hours: 10:00 to 22:30 any day. Proposed: 09:00 to 20:00 any day.
- Deliveries etc – Approved hours: 07:30 to 20:00 M-F, 08:00 to 18:00 Sat. Proposed: no change.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 21/12/2017 – Planning permission granted for the change of use, alterations and extensions to former mill buildings to form mixed use development

comprising food manufacturing, cookery school, café, shop, restaurant, cooking demonstration/tasting areas and management offices/suite, with outdoor seating areas, service yard, parking and associated landscaping works (ref: 2017/91888). Works have commenced on site in connection with this permission.

- 4.2 Pending determination – Application for discharge of conditions 3 (materials), 4 (car parking layout), 5 and 6 (works to public footpath), 7 (cycle parking), 8 (construction traffic), 9 (arboricultural method statement), 11 (ecological design strategy), 12 (control of invasive species), 19 (electric vehicle charging), and 22 and 23 (site contamination). In a letter dated 14/03/2018 officers confirmed that some of the submitted details were acceptable, but further information or amendments would be required for certain conditions. In a further letter dated 25/06/2018 officers again requested additional information and amendments (ref: 2018/90205).
- 4.3 Pending determination – Application for erection of extension to former mill building (ref: 2018/90877).

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

- 5.1 Following the approval of planning permission on 21/12/2017, no pre-application discussions relating to the proposed amendments (or to the extension proposed under application ref: 2018/90877) took place with officers.
- 5.2 In relation to condition 2, during the life of the current application, the applicant submitted drawing 3124(0-) 123 rev B, stating that this had been prepared during the life of application 2017/91888. This drawing was not approved under that previous application, and is not entirely reliable due to the inconsistent colouring across the various uses, the classification of some areas as B1 floorspace (when this floorspace probably should be regarded as ancillary to one of the main uses), and the total floorspace figure of 949sqm (885sqm were referred to in the committee report). The annotations on this drawing, however, largely correspond with those on floorplans 3124(0-)110 rev H, 111 rev G and 112 rev E (which were approved under permission ref: 2017/91888), and the drawing includes a table which breaks down (with floorspace figures) the uses of the approved scheme. This drawing is therefore of some use in comparing the approved and proposed schemes.
- 5.3 The applicant also submitted drawing 3124(0-)123 rev C to illustrate the proposed changes to the mix and arrangement of uses in the northern building. Again, this drawing has inconsistent colouring and classifies some areas as B1 floorspace, however it is of some use as it provides floorspace figures in a table that can be compared with those of rev B.
- 5.4 A floorspace breakdown and comparison was provided in the above-mentioned email dated 29/05/2018, albeit with some minor differences to the floorspace figures provided in drawings 3124(0-) 123 rev B and rev C.
- 5.5 An amended site plan 3124(0-)100 rev M was submitted by the applicant on 18/06/2018 to address officer concerns that some of the previously-proposed mitigation planting had been omitted from drawing 3124(0-)100 rev L.

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.

Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

- 6.2 The site is within the green belt and a wildlife corridor.

- 6.3 Relevant policies are:

G6 – Land contamination
D11 – Extensions within the green belt
NE5 – Wildlife corridors
NE9 – Mature trees
BE1 – Design principles
BE2 – Quality of design
BE11 – Building materials
BE22 – Accessible parking
BE23 – Crime prevention
EP4 – Noise sensitive development
EP6 – Development and noise
EP11 – Landscaping and ecology
EP30 – Prolonged construction work
T1 – Transport priorities
T2 – Highway improvements
T10 – Highway safety
T14 – Pedestrian safety
T16 – Pedestrian routes
T17 – Cycling
T19 – Parking standards
B4 – Change of use of business or industrial sites
S1 – Town centres and local centres
R13 – Rights of way

Kirklees Draft Local Plan Strategies and Policies (2017):

- 6.4 The site is within the green belt, and parts of the site are within a Wildlife Habitat Network, Green Infrastructure Network and Biodiversity Opportunity Zone in the draft Local Plan.

6.5 Relevant policies are:

PLP1 – Presumption in favour of sustainable development
PLP2 – Place shaping
PLP3 – Location of new development
PLP4 – Providing infrastructure
PLP7 – Efficient and effective use of land and buildings
PLP8 – Safeguarding employment land and premises
PLP9 – Supporting skilled and flexible communities and workforce
PLP10 – Supporting the rural economy
PLP13 – Town centre uses
PLP16 – Food and drink uses and the evening economy
PLP20 – Sustainable travel
PLP21 – Highway safety and access
PLP22 – Parking
PLP24 – Design
PLP27 – Flood risk
PLP28 – Drainage
PLP29 – Management of water bodies
PLP30 – Biodiversity and geodiversity
PLP31 – Strategic Green Infrastructure Network
PLP32 – Landscape
PLP33 – Trees
PLP34 – Conserving and enhancing the water environment
PLP35 – Historic environment
PLP47 – Healthy, active and safe lifestyles
PLP51 – Protection and improvement of local air quality
PLP52 – Protection and improvement of environmental quality
PLP53 – Contaminated and unstable land
PLP57 – The extension, alteration or replacement of existing buildings (in the green belt)
PLP59 – Infilling and redevelopment of brownfield sites (in the green belt)
PLP60 – The re-use and conversion of buildings (in the green belt)

Supplementary Planning Guidance / Documents:

6.6 Relevant guidance and documents are:

- West Yorkshire Air Quality and Emissions Technical Planning Guidance
- Kirklees Landscape Character Assessment (2015)

National Planning Policy and Guidance:

6.7 The National Planning Policy Framework (2012) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal. Relevant paragraphs/chapters are:

- Paragraph 17 – Core Planning Principles
- Chapter 1 – Building a strong, competitive economy
- Chapter 2 – Ensuring the vitality of town centres
- Chapter 3 – Supporting a prosperous rural economy
- Chapter 4 – Promoting sustainable transport

- Chapter 7 – Requiring a good design
- Chapter 8 – Promoting healthy communities
- Chapter 9 – Protecting green belt land
- Chapter 10 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 11 – Conserving and enhancing the natural environment
- Chapter 12 – Conserving and enhancing the historic environment

6.8 Since March 2014 Planning Practice Guidance for England has been published online.

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised via a site notice, a press notice, and letters delivered to addresses abutting the application site. This is in line with the council's adopted Statement of Community Involvement. The end date for initial publicity was 20/04/2018.

7.2 Representations from occupants of three properties were received in response to the council's consultation relating to this application and to the related application ref: 2018/90877. The following is a summary of the concerns raised:

- Proposals would result in a very different development. Applicant should have reviewed requirements at original application stage.
- Objections to size of extensions. Substantial floor area would be added to a listed building within the green belt, contrary to NPPF paragraphs 89 and 90. Additional building is unnecessary as applicant could use the whole of the southern building which is proposed to be left undeveloped.
- Objections to design of extensions. Consistent line of buildings would be created around the corner of Luke Lane, instead of there being a gap as at present. Glass roof over herb garden is out of character with listed mill building.
- Loss of amenity to Royd Mill due to additional height of building.
- Highways concerns. Vehicles often approach bend at speed. Motorcyclist was killed near entrance to The Waterside. Extension would be right up to the highway and makes no allowance for pedestrians – pavement should be provided via a Section 106 agreement. Previously-anticipated traffic issues have come to fruition during construction. Site does not have the promised vehicle wheel wash.
- Concern that dilapidated southern building may never be developed.
- Noise concerns relating to people visiting the site late in the evening.
- Terms of original planning permission have been flouted.

7.3 Responses to these comments are set out later in this report.

7.4 Cllr Patrick has commented as follows:

[Application] should go to committee. When this development was first mooted it was much bigger and that gave rise to concerns from residents. A conversation was had and the application was reduced in size and that removed most of the objections. That was approved at Committee. Now we have another application which increases the

size of the development and residents are not happy. Luke Lane is a substandard road and is used as a rat run, so it is busy with traffic. The junction with Huddersfield Road is difficult to drive down. There was a Volvo estate jammed at the top of Luke Lane at the junction earlier in the week. Any increase in traffic including delivery vehicles will create more problems at that junction. I am sure the Chair of the Huddersfield Planning Committee will be only too aware of the problems at that junction as it is in his ward. I really do think that any intensification at that site requires some safety work to that junction and unless that takes place I don't think this should be approved.

7.5 Cllr Firth has verbally confirmed that he shares the above concerns.

7.6 Holme Valley Parish Council have raised no objection provided that there would be no deliveries on Sundays and bank holidays, and that only one restaurant operates at the site.

8.0 **CONSULTATION RESPONSES:**

8.1 **Statutory:**

KC Highways – No objection in relation to condition 2, subject to control ensuring that two restaurants cannot ultimately operate from the same site without further assessment of the likely traffic impact. No objection in relation to condition 15 given that it would include a restriction on a restaurant in the southern building. Condition recommended. Previous conditions should be re-applied.

KC Strategic Drainage – This is a minor planning application that is subject to standing advice.

8.2 **Non-statutory:**

KC Trees – Generally no objection to most of the variation of condition 2, however previously-proposed treeplanting is no longer shown. This should be shown and provided pursuant to previous condition 11.

KC Environmental Health – No objection. With regard to condition 2, as there would be a minimal footprint change to the northern building, any contamination risk due to the extensions can be addressed in the Phase II report to be submitted pursuant to previous condition 22. As there still would be cooking facilities in both building, a scheme demonstrating how odours and noise from all extract and ventilation systems would be controlled would be required as per previous conditions 16 and 17. With regard to condition 15, the hours of opening for the northern and southern buildings have been swapped, and delivery hours remain unchanged, therefore there are no issues in terms of residential amenity.

Police Architectural Liaison Officer – Recommend measures to minimise the risk of crime, and a condition requiring the submission of details of crime prevention and security measures. Car parking area are too remote for routine active surveillance from the buildings, therefore monitored CCTV should be provided. Secure cycle parking provision is required, instead of Sheffield racks. Applicant should refer to Secured by Design guidance.

KC Ecology – 20:00 closing time throughout the year would have avoided the time when bats are active in the early part of the season (after they emerge from hibernation), but not in the later part of the season. Extending the operational hours to 22:30 for the building immediately adjacent to the river would present a much greater risk to the high quality bat habitat that the river corridor affords.

KC Public Rights of Way – Public footpath Holmfirth 50 is adjacent to the development site and must not be interfered with or obstructed prior to, during or after development works.

9.0 MAIN ISSUES

- Scope of this application
- Green belt issues
- Arrangement and mix of uses
- Urban design and conservation issues
- Residential amenity
- Highway issues
- Drainage issues
- Ecological considerations
- Trees
- Representations

10.0 APPRAISAL

Scope of this application

- 10.1 Section 73 of the Town and Country Planning Act 1990 concerns the “Determination of applications to develop land without compliance with conditions previously attached”, colloquially known as “varying” or “amending” conditions. Section 73 applications must also involve consideration of the conditions subject to which planning permission should be granted. Where an application under Section 73 is granted, the effect is the issue of a fresh grant of permission and the decision notice should list all conditions pertaining to it. The application cannot be used to vary the time limit for implementation.
- 10.2 It is important to note that when assessing Section 73 applications the previously-granted planning permission is a significant material consideration, which impacts heavily on the assessment of the proposal. If the original application has been implemented, or if the permission has not yet expired, the applicant may go ahead and complete the original approved scheme if they wish.
- 10.3 In this case, the applicant could develop the site in accordance with the 2017 permission, and this fallback is a material consideration to which significant weight must be given. The principle of significant development at this site has already been accepted by the council.
- 10.4 Alterations to planning policy and other material considerations that may have emerged since the original grant of planning permission are relevant and need to be considered. However, these must be considered in light of the matters discussed in the above paragraphs and the applicant’s ability to complete the originally-approved development.

Green belt issues

- 10.5 As noted in the committee report for the previous application, paragraph 89 of the NPPF states that the construction of new buildings should be regarded as inappropriate in the green belt, however some exceptions apply – these include “the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building”.
- 10.6 The extensions proposed to the northern building under this Section 73 application would be single-storey, and would add approximately 26sqm to the approved northern building (which, once extended in accordance with the 2017 permission, would have been 328sqm in size), resulting in a building of 354sqm. In the context of the original size of the northern building, what currently exists on site (including the red brick west extension), and the extensions approved in 2017, this increase in massing and floorspace is not considered significant in relation to the impact upon the openness of the green belt. The additional massing proposed to the southwest corner of the northern building would not project beyond the building’s original south wall, and when viewed from the west would be seen immediately in front of the original building. The southern building would continue to provide an element of screening to the extended northern building. The widening of the previously-approved east extension to the northern building would also be viewed in the context of the larger original building to which it would be attached. Given their size, design, locations and visibility, it is not considered that the extensions previously approved and now proposed (either individually or cumulatively) would result in disproportionate additions over and above the size of the original building. It is considered that the proposed extensions to the northern building comply with paragraph 89 of the NPPF and draft policy PLP57 in the emerging Local Plan.
- 10.7 Subject to materials which would be controlled by a recommended condition, the plant room and bin store, proposed between the northern and southern buildings (where a turning and loading area and a small bin store were previously proposed), would have a limited visual impact, would not harm the openness of the green belt, and are also considered compliant with paragraph 89 of the NPPF, which allows for limited infilling of previously developed (brownfield) sites. Draft policy PLP59 would also be complied with.
- 10.8 The proposed changes to the layout of the parking areas would not result in a greater impact upon the openness of the green belt when compared with the previously-approved layout. The demolition of the open-sided portal frame building, which was shown to be retained on previously-approved layout drawings, would be slightly beneficial in terms of green belt impacts when a comparison is made with the previously-approved development.
- 10.9 The proposed reconfiguration of uses within the northern building, and the proposed changes to hours of operation, do not have implications in relation to the openness of the green belt.

Arrangement and mix of uses

- 10.10 The additional 26sqm of the extensions proposed under the Section 73 application are not considered significant in land use terms.

- 10.11 Using the floorspace figures provided by the applicant on 29/05/2018, A3 floorspace within the northern building would increase from 67sqm to 139sqm. If the kitchen, “service zone” and toilets areas are counted as ancillary to the A3 floorspace (which may only be partly appropriate, as they were and are intended to also serve the development’s retail and cookery school elements), A3 floorspace within the northern building would increase from 179sqm to 241sqm.
- 10.12 It should be noted, however, that across the northern and southern buildings, 237sqm of A3 floorspace (or 382sqm, if ancillary spaces are included, although this may only be partly appropriate) was approved in 2017. As the southern building is to be left undeveloped for at least two years (according to the applicant), for that period there would be less A3 floorspace in operation than in the approved scheme.
- 10.13 The proposals essentially involve moving the approved restaurant from the southern to the northern building. To ensure that two restaurants are not created when the southern building is eventually opened, a condition is recommended, requiring the quantum of each use in the two buildings to revert back to what was approved in 2017.
- 10.14 Given the small amount of additional floorspace proposed under this application, given that some of this would be ancillary accommodation, and given that the 2017 proposals were subject to sequential testing, it is not considered necessary to require a further sequential test under this application. It is considered that the proposed additional 26sqm would not significantly affect the viability or vitality of existing centres.
- 10.15 No new uses would be introduced as part of the proposed development.

Urban design and conservation issues

- 10.16 As noted earlier in this report, the site is not within a conservation area, and it includes no listed buildings.
- 10.17 As with the above assessment of the impacts upon the green belt, in design terms the extensions proposed under this Section 73 application are not considered significant. Large extensions were initially proposed under (and negotiated out of) the previous application, however the extensions now proposed do not represent a reversion to a previously-rejected quantum or massing.
- 10.18 The plant room and bin store would be larger than the bin store previously approved between the northern and southern buildings, however these interventions would remain relatively unobtrusive, and do not raise significant design concerns.
- 10.19 As set out in the accompanying report for application ref: 2018/90877, the extension proposed under that application raises no significant design concerns. Similarly, the cumulative impacts of all the extensions proposed under both current applications are considered acceptable.
- 10.20 The number of parking spaces proposed to the west of the former mill buildings would not change. The amount of green space lost to car parking would not

change under the current application, and this aspect of the proposals raises no concerns in design and conservation terms.

- 10.21 Part of the mill race that runs east-west adjacent to (and across part of) the site would be lost as a result of the proposed reconfiguration and moving of the parking areas. The mill race, however, is overgrown and partly collapsed, and is not considered to be a non-designated heritage asset of significance or worthy of protection. The loss of part of it is considered acceptable, especially when considered in light of the additional soft landscaping that would be provided along the south bank of the River Holme as a result of the proposed moving of the main car park southwards.

Residential amenity

- 10.22 The proposed mix of uses raises no concerns in relation to neighbour amenity, subject to the condition mentioned above (that would prevent two restaurants operating from the site) being applied.
- 10.23 Due to their limited height and locations, the extensions proposed under this Section 73 application would not adversely affect neighbouring residential properties (at Royd Mill and elsewhere) in relation to natural light, outlook or privacy.
- 10.24 Relocating the restaurant into the northern building, slightly further away from the neighbouring flats at Royd Mill, may have a limited amenity benefit for those residents opposite. However, it is not recommended that condition 18 of the previous permission (which required obscure glazing to the southern building where it would face Royd Mill) be omitted from the council's new decision notice.
- 10.25 Changes to the opening hours of both the northern and southern buildings are proposed. The relocated restaurant in the northern building would open 30 mins earlier than the approved restaurant in the southern building in the morning, but no later in the evenings. It is considered that these changes are relatively minor, and the additional 30 minutes of opening in the morning would not result in unacceptable impacts upon neighbouring residents.
- 10.26 Delivery and dispatch times would not change.

Highway issues

- 10.27 UDP policy T10 states that new development will not normally be permitted if it will create or materially add to highways safety problems. Policy PLP21 of the emerging Local Plan requires development proposals to be accessed effectively and safely by all users, and states that new development will not be permitted if it adds to highway safety problems. Paragraph 32 of the NPPF states that decisions on planning applications should take account of opportunities for sustainable transport modes, and the safety of site access.
- 10.28 Under the previous application, residents and Members expressed concerns regarding highways matters, and in particular the safety of Luke Lane, and the adequacy of its junction with New Mill Road (the A616). Some of these concerns have been reiterated in relation to the current application.

- 10.29 Given the limited size of the proposed extensions, and the fact that the capacity of the proposed parking areas would not change, it is considered that the proposed development would not result in a material intensification of use when compared with the 2017-approved development. As such, anticipated vehicle movements are not expected to differ to those previously considered.
- 10.30 It remains the case that the Luke Lane / New Mill Road junction (which would be used by much of the traffic moving to and from the development) is not ideal, but that it operates with a reasonably good safety record. It is also noted that a significant proportion of movements associated with the development would pass through this junction outside peak hours.
- 10.31 The relocated turning area would be of an adequate size for the number and sizes of vehicles expected to visit the site.
- 10.32 The application has not attracted an objection from the council's Highways Development Management team.
- 10.33 No additional impacts upon public footpath HOL/50/50 are anticipated in relation to the extensions or other aspects of the proposed development, however it is recommended that previously-applied conditions relating to this footpath be applied again.

Drainage issues

- 10.34 Due to its location and limited size, the floorspace to be added to the proposed development under this application is unlikely to increase flood risk. The other aspects of the proposed development do not have implications for drainage and flood risk.

Ecological considerations

- 10.35 Later operating hours (and the associated internal illumination) of the northern building raises concerns in relation to bats using the adjacent River Holme for commuting and foraging. The applicant, however, has pointed out that proposals for the northern building were amended during the life of the previous application to delete rooflights facing the river, and that condition 14 of the previous permission, which requires the submission of a lighting strategy for biodiversity, can be re-applied to address any further concerns. This is considered appropriate.
- 10.36 In addition, it is noted that, as the number of vehicles visiting the site (and using headlights at night) is not expected to increase, the proposed reconfiguration of the parking areas does not raise concerns in relation to bats. The proposed moving of the main car park away from the River Holme, and the additional soft landscaping proposed along its south bank, may in fact reduce impacts in relation to bats when compared with the 2017-approved development.

Trees

- 10.37 Several trees along the south bank of the River Holme are protected by Tree Preservation Orders, as are trees outside the site within Longlands Wood. Hagg Wood, to the north of the site, is ancient (replanted) woodland, and is also protected.

- 10.38 UDP policy NE9 states that mature trees should normally be retained, while policy PLP33 in the emerging Local Plan states that the council will not grant planning permission for development which directly or indirectly threaten trees or woodlands of significant amenity value, and that development proposals should normally retain any valuable or important trees where they make a contribution to public amenity, the distinctiveness of a specific location or contribute to the environment, including the Wildlife Habitat Network.
- 10.39 On 18/06/2018 the applicant submitted amended site plan 3124(0-)100 rev M to address officer concerns that some of the previously-proposed mitigation planting had been omitted from drawing 3124(0-)100 rev L. With adequate mitigation planting now proposed once again, and with the applicant's confirmation that only seven trees would be felled (T4, T5, T9, T10, T11, T12 and T13) and that tree T15-B would be retained, the proposed development is considered sufficiently compliant with UDP policy NE9 and policy PLP33 of the emerging Local Plan. Previously-applied conditions relating to trees, however, are again recommended.

Representations

- 10.40 To date, representations have been received from the occupants of three properties. Below are the issues which have been raised which have not been addressed earlier in this report, and the case officer's response.
- Southern building – Concern has been expressed over the possibility that the dilapidated southern building may never be developed. Officers consider that, while it would be preferable for both the northern and southern buildings to be brought back into use as soon as possible, approval of this Section 73 application would not necessarily increase the risk of this not happening in the case of the southern building. In documents supporting the changes currently proposed, the applicant has confirmed their intention to renovate and reopen the southern building in phase 2 of the development. There are, however, reasonable grounds for applying a new condition relating to the phasing and implementation of development at this site, given that (at previous application stage, when weighing up impacts upon the green belt) positive weight was attached to the proposed renovation of *both* the northern and southern buildings, and given that prolonged construction work can adversely affect neighbour amenity.
 - East extension – Impacts of this extension are being considered under the related application 2018/90877, however cumulative impacts are referred to in both reports, where appropriate.

Planning obligations

- 10.41 As with the previous application, no planning obligations secured via a Section 106 agreement are considered necessary in connection with the proposed amendments.

Other matters

- 10.42 Officers are aware of local concerns regarding construction management and works already being carried out on site. Condition 8 of the 2017 permission

requires the submission of details of construction traffic access, and it is recommended that this condition be re-applied.

11.0 CONCLUSION

- 11.1 This application does not provide an opportunity to revise or reconsider the original grant of planning permission. This application only relates to the consideration of the variation of conditions as indicated.
- 11.2 The application site is undoubtedly constrained, however it is considered that the proposed amendments to the previously-approved development would not introduce additional and unacceptable impacts in relation to these constraints, specifically the openness of the greenbelt, highways safety and traffic flow, and neighbour amenity. The proposed changes are also considered acceptable in land use, design, trees and ecology terms.
- 11.3 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.
- 11.4 The proposed development has been assessed against relevant policies in the development plan and other material considerations. It is considered that the proposed development would constitute sustainable development (with reference to paragraph 14 of the NPPF) and is therefore recommended for approval.
- 11.5 It is recommended that the conditions applied to the previous planning permission (ref: 2017/91888) be re-applied to the new permission, along with an additional condition requiring the northern building's A3 floorspace to revert back to the previously-approved amount as and when the southern building's A3 floorspace is brought into use.

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

- 1. to 26. As per decision letter of 21/12/2017.
- 27. A3 floorspace controlled to ensure two restaurants do not operate from the site.
- 28. Phasing schedule/plan for the development to ensure both buildings are converted within an appropriate timeframe.

Background Papers:

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2018%2f90876>

Certificate of Ownership – Certificate A signed