
Report of the Head of Strategic Investment**STRATEGIC PLANNING COMMITTEE****Date: 09-May-2019**

Subject: Planning Application 2019/90756 Variation of condition 2. (plans and specifications) on previous permission no. 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

G Dunkley, Taylor
Wimpey Yorkshire

DATE VALID

14-Mar-2019

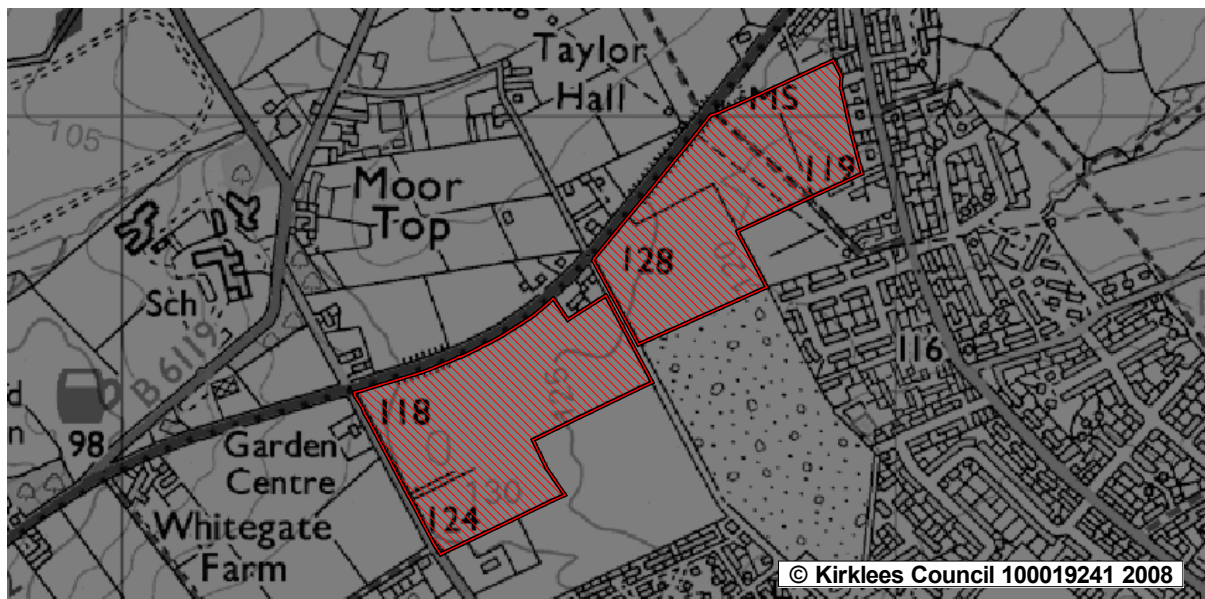
TARGET DATE

13-Jun-2019

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.

<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: Mirfield

Yes

Ward Members consulted
(referred to in report)

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 a variation to the S106 agreement to cover the following matters:

1. Financial contribution towards off-site highway works for junction improvements to:

- Church Lane (£25,000)
- Stocks Bank (£35,000)
- Robberttown (£35,000) and
- Leeds Road (£35,000).

2. Financial contribution towards travel plan monitoring

- £15,000 (£3,000 per annum for 5 years)-Industrial
- £8,000 (£2,000 per annum for 4 years)- Residential

3) Financial contribution of £970,000 towards Education requirements arising from the development

4. Financial contribution of £30,000 towards off site drainage improvements

5. Phasing of delivery.

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 as previous applications on this site have always been considered at Committee, and Ward Member Cllr Bolt has requested that any proposals affecting or modifying this scheme are brought to the Committee for scrutiny.

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:

Background

- 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. Outline permission was amended by the application 2018/90802, which varied a number of conditions on the original approval relating to highways, drainage issues, and the Storage and Distribution (B8) use of the site.
- 3.3. This application together with a Reserved Matters submission on the industrial site for access and site levels) were considered and approved by the Strategic Planning Committee in July of 2018 and approved subject to the signing of an updated Section 106 agreement. The decisions of which were issued in October 2010.
- 3.4. The Heads of Terms of the Section 106 Agreement remain as detailed below:
- Education Contribution of £970,000- provided in 4 tranches upon completion of the 30th, 60th, 90th and 120th dwellings.
 - A Travel Plan and Travel Plan monitoring fee for both the residential and industrial schemes;
- Off-site Highway junction improvements at:-
- Church Lane (£25,000 before any dwellings occupied);
 - Stocks Bank (£35,000 before any dwellings occupied);
 - Roberttown (£35,000 before any dwellings occupied); and
 - Leeds Road (£35,000 before the occupation of the 30th dwelling).

- Off-site drainage improvements (£30,000 before the occupation of the 30th dwelling.
 - Plus phasing provisions which require the provision of access to both the residential and industrial parts of the site, and the approval/ implementation of necessary site improvements on the industrial site.
- 3.5 The decision format is a hybrid decision ie: Full permission for the residential, scheme and Outline permission for the Industrial scheme.
- 3.6 Both the residential scheme and the Industrial scheme and associated Reserved Matters approval have commenced on site, and all of the relevant commencement conditions and clauses in the Section 106 have been satisfactorily discharged and as such these approvals are extant and safeguarded.

Proposal

- 3.7 This application is a Section 73 application proposed to vary condition 2 of the full permission of the residential part of the site. The variation involves the re-plan of a number of the house units within the site and minor alterations to the layout. The overall numbers of units will be 160 as opposed to the approved 166.
- 3.8 The dwellings in the re-plan areas are all house types that have been approved and are present within the scheme already. The road layout is unaltered from that already approved and commenced as is the disposition of the green and open space about the site. There are no dwellings that are any closer to the boundaries of the site or any existing dwellings than already agreed.

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. Approved

2018/90802 Variation of conditions 23, 30 and 31 of 2014/90688 Approved with variation of Section 106

2018/93622 Reserved Matters application for erection of industrial unit (plot 1) Approved January 2019.

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

5.1 Not applicable

6.0 PLANNING POLICY:

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

7.0 PUBLIC/LOCAL RESPONSE:

7.1 This application was publicised by site notices neighbour letters and within the local press.

7.2 The final date for receipt of April 2019.To date no response has been received.

7.3 Mirfield Ward Councillors were notified on 20th March, by e mail – To date there has been no response.

7.4 **The Mirfield Town Council**

The following motion was resolved at MTC meeting 16th April.

Cllr Bolt Proposed MTC contact Chief Executive regarding the lack of notification regarding the TRO on A62 from Far Common Rd - Lumb Lane. MTC asked Kirklees for a blanket TRO on HGV activity within the Mirfield Triangle and have not had confirmation of this. MTC has concerns that TRO will not be effective or enforced as the distance is too long. MTC asks that a traffic flow investigation is carried out prior to the TRO coming into effect, to ascertain the traffic flow and during the 31 week period including the highway outside John Cottons. MTC also request that Kirklees look into incident management on M62
Cllr Guy Seconded Vote: All in favour.

8.0 **CONSULTATION RESPONSES:**

8.1 **Statutory:**

KC Highways DM – No objections, the layout does not differ significantly from that already approved. Conditions and Section 106 obligations to apply to this scheme as amended.

8.2 **Non-statutory: N/A**

Note: Given that both the residential scheme and industrial scheme have commenced and relevant conditions discharged, the approved discharges of condition are relevant to the residential scheme as amended. Also there are a number of conditions which are prior to occupation eg Air Quality and Noise attenuation, which are still relevant and will be restated.

The information on which these discharge of condition is based is up to date and current, and as such there is no need to re-consult on these issues.

9.0 **MAIN ISSUES**

- Principle of development
- Urban design issues
- Residential amenity
- Landscape Issues/Bio diversity Issues
- Environmental Issues
- Drainage

10.0 **APPRAISAL**

Principle of development.

- 10.1 The principle of development for both residential and industrial elements on this site has long been established, first in 2014, and the site is allocated as mixed use on the Local Plan (ie: residential and employment).

- 10.2 The extent of the changes to solely the residential element of this scheme sought by this Section 73 application are very minor. The net reduction in units from 166 to 160, does not impact upon the overall scheme materially or in terms of delivering both the 160 houses and the Industrial units.
- 10.3 On residential schemes of this scale normally policies regarding affordable housing, POS and Education contributions would be relevant. However as has been stated in the introduction development has already commenced on this site and the extant permissions are safeguarded. As part for the original application there was a viability appraisal undertaken, which informed the levels of contributions within the Section 106 and this stands and cannot be renegotiated on the back of a Section 73 submission.
- 10.4 Notwithstanding the above, all of the contributions detailed in para 3.4 will be secured through a variation of the Section 106. The changes have no impact upon the phasing or delivery of the whole site and both residential and industrial elements.

Highways Issues

- 10.5. The existing permission extends to the whole of the Mirfeld 25 allocation in the former UDP and the Mixed use allocation on the Kirklees Local Plan. The strategic Highways issues involving access to both the industrial site and the residential site have been considered and agreed by this Committee twice already.
- 10.6. The timing of the provision of these accesses together with the agreed off site junction improvements mentioned in para 3.4 above, are all secured within the Section 106 agreement, and the delivery is underway in accordance with the agreed schedule. This is unaffected by the very minor nature of the changes applied for in this Section 73 application
- 10.7. The internal road layout within the residential part of the scheme is not changed at all as a result of the minor changes to the house types and re-planning that is applied for. The amended house types and re-planned areas all have sufficient parking provision within their curtilages to satisfy the Councils parking standards and there is no conflict with the agreed road layout, communal areas, service provision and turning and bin collection points. If anything the scheme will result in a marginal reduction in the number of cars within the site given the reduction in the number of houses by 6.
- 10.8 There is no objection to this scheme from a Highways perspective and all of the highways contributions and phasing issues mentioned in para 3.4 will all be secured in the variation of the Section 106.

Urban Design

- 10.9 With the exception of a slight reduction in the numbers of units the layout is practically identical to that already approved. This still delivers a density of approx. 26 per ha and the house types are a mix of semi-detached, terraced and detached and between 2 to 3 storey which is considered to be an appropriate density and scale for the surrounding dwellings in the vicinity.

- 10.10 The layout still provides for substantial areas of green space, with the dwellings fronting onto Leeds Road still set back from the frontage of Leeds Road and also on the NE and NW edges of the site the agreed tree planting and buffer landscaped areas are retained.
- 10.11 The provision of the footpath link through "The Avenue" Greenspace central to the site linking Leeds Road with Old Engine Close to the south is retained.
- 10.12 As such the requested variation of condition has a negligible effect on the layout or urban design of this site in relation to either existing dwellings or the future industrial delivery.

Residential Amenity

- 10.13 The areas that have been re-planned are all within the body of the existing approved residential layout, and there is no change to the already approved road layout. There are no dwellings that are any closer to any boundaries of the site either in relation to existing neighbouring dwellings or in relation to the industrial site. As such the residential amenities of either existing dwellings or proposed dwellings are not materially affected by the changes proposed.
- 10.14 The internal layout still more than satisfies the Councils space about buildings standards, delivering adequate privacy and amenity space for future occupiers.
- 10.15 A number of the dwellings are in proximity to potential traffic noise sources from Leeds Road. On the original full residential approval there is a condition requiring the implementation of noise attenuation measures for these dwellings, and given that a number of these units are affected by the re-plan it is proposed to restate this condition to safeguard future residential amenity. Also, there is an acoustic ventilation scheme approved on the original scheme that will be restated.

Landscape/Bio-diversity

- 10.16 The changes proposed through the Section 73 application have no impact upon the overarching landscape framework for the whole site which includes open space areas, new hedgerows, and tree planting as well as buffer planting between the residential site and the industrial, and the industrial site and Leeds Road.
- 10.17 Within the residential layout the slight change in house types and corresponding garden and parking areas necessitate the submission of a revised landscape plan for that part of the site, and this will be sought through condition.
- 10.18 There has been a Landscape and Ecological Management Plan (LEMP) approved for this site, and the changes reflected in the updated landscape scheme should also be incorporated into an updated LEMP, and this will also be conditioned.

Environmental Issues (Contamination, Noise, Lighting and Air Quality).

- 10.19 Both the residential and industrial elements of the site has an agreed decontamination and remediation strategy that will be restated and applied and verified across the whole site.
- 10.20 There is already an agreed noise attenuation and ventilation schemes that relate to certain parts of the residential scheme (ie: in proximity to Leeds Road a traffic noise source). These approved schemes will be restated and applied to specific plots as amended by the re-plan.
- 10.21 The changes proposed have no effect on the overall lighting scheme within the site and this will be restated as a condition.
- 10.22 With respect to air quality, there are conditions requiring further survey work regarding the industrial element prior to any occupation. There is a condition on the residential scheme for the provision of electric charging points as well as a Travel Plan. These conditions will be restated and are unaffected by the minor nature of the changes proposed.

Drainage

- 10.23. A site wide drainage scheme has been negotiated for this site for both the residential scheme and the industrial scheme. This will be restated for the residential scheme as a condition. The minor changes sought by the Section 73 proposal have no impact upon the site wide strategy that includes on site SUDS areas nor the timing of the delivery of the off-site drainage improvements (actually just to the south of the residential scheme) that is required in the Section 106 Agreement.

11.0 CONCLUSION

- 11.1 This application is a variation of a condition relating to an approval that has already legitimately started, and accordingly the permissions are safeguarded. As such whilst the already agreed Section 106 contributions can be secured it is not possible to renegotiate heads of terms (for example on affordable housing provision).
- 11.2 The changes proposed are minor material amendments to the already agreed scheme that have negligible impact upon the delivery of the much needed housing and industrial units on this site.
- 11.3 Accordingly, approval of this variation subject to the restating of necessary conditions and a variation to the section 106 securing all the contributions mentioned in para 3.4 is recommended.

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

Residential

1. 3 years to start development
2. Construct in accordance with approved plans
3. Noise / ventilation attenuation
- 4 Amended landscape plan and LEMP

Outline only

5. Res Matters (siting, landscape, scale, appearance).
6. Drainage
7. Decontamination
8. Noise levels on boundaries
9. Lighting
10. Arboricultural Method Statement
11. Air Quality
12. Travel Plan
13. Highway –parking and turning areas to be provided and surfaced.

Note:

On both the residential and industrial elements of this scheme the pre-commencement conditions have already been discharged, these include:

- Drainage;
- Decontamination and remediation;
- Coal Mining legacy mitigation measures;
- Construction Management Plan;
- Landscape and Ecological Management Plan:
- Tree protection measures;
- Arboricultural Method Statements;
- Landscape planting and details of buffer zones
- Car parking management plan(Industrial plot 1)

Background Papers:

Application and history files.

Website link to be inserted here

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