

KIRKLEES METROPOLITAN COUNCIL

PLANNING SERVICE

**UPDATE OF LIST OF PLANNING APPLICATIONS TO BE DECIDED BY
STRATEGIC PLANNING COMMITTEE**

20 JUNE 2019

Planning Application 2018/94189

Item 14 – Page 13

**Outline application for residential development of up to 366 dwellings
with details of access points only**

Land off Soothill Lane, Batley

Additional representations:

Since writing the committee report and expiry of the second round of publicity period on 18th June, a further two representations have been received. The concerns raised relate to:

- highway safety and intensified use of the surrounding highway network which objectors state are already congested particularly on Soothill Lane and Mill Forest Way
- Loss of privacy, light and overlooking into existing neighbouring properties
- Loss of habitat for wildlife
- Disruption to neighbours during the construction period
- Local dentists, Doctors and facilities are at full capacity
- Current traffic regulations and restrictions not be adhered to
- Loss of green belt land
- Intrusion onto public right of way

Response: These area issues/concerns previously raised and addressed in the committee report.

Flood Risk/Drainage issues:

The Committee report (para no. 10.59) refers to site investigations in the form of dye testing being carried out at the site, the result of which were stated to be reported in the update.

The Councils Lead Local Flood Authority has confirmed the dye test was inconclusive but also difficult to carry out due to how overgrown areas within the site.

In this instance it could not be proved that the watercourse ends up in the surface water sewer. Furthermore, it was established a number of overland flows exist within the southern parcel of land which may be due to a blockage in the system.

In light of this, as well as any surveys with a camera, a mini-digger and some trial trenches will be appropriate for further investigations to establish the exact route of the watercourse once it leaves the site and prior to any layout of the site being considered. This is a matter which can be conditioned to inform Reserved Matters stages.

Outline application for erection of retail units

Centre 27 Business Park, Bankwood Way, Birstall, Batley, WF17 9TB

Additional Consultation Response:

The Health and Safety Executive have provided some supplementary information after being notified that the application was to be reported to the Strategic Committee with a recommendation for approval, contrary to HSE advice.

The letter from the HSE states:

Tennants Distribution Ltd, Gelderd Road, Birstall

1. As the Hazardous Substance Authority ['HSA'], Kirklees Council accepted Tennants Distribution Ltd (Gelderd Road) ['Tennants'] Deemed Hazardous Substance Consent application to store significant quantities of hazardous substances in 1999.
2. HSE records indicate that Tennants is a chemicals distributor with over 800 stock lines stored within its warehouse. Under the hazardous substances consent the site is permitted to store up to specified quantities of highly toxic, oxidising and highly flammable substances.
3. The site is subject to the Health and Safety etc. Act 1974, and more specifically the Control of Major Accident Hazards Regulations 2015 see (<http://www.hse.gov.uk/pubns/books/l111.htm>). As the regulator, HSE verifies by undertaking sample assessment and inspections that Tennants have the necessary measures in place.

Residual risk

4. History and logic indicate all risk cannot be eliminated and there is always a residual risk. Residual risk being the risk that unavoidably remains after all legally required measures have been taken to prevent and mitigate the effects of a major accident - see paragraph 068 of the Planning Practice Guidance (PPG) on Hazardous Substances - Handling development proposals around hazardous installations, published by the Ministry for Housing, Communities and Local Government.

Assessment of residual risk

5. HSE's role as a statutory consultee includes assessing the hazard/'residual risk' and providing consultation zones to the planning authority.
6. At the proposed development site, which lies within the middle and outer zones, the risks to people are dominated by the bulk storage of hydrogen peroxide. In the event of a fire at the warehouse, should the peroxide become contaminated, the resulting reaction could cause an explosion and people within the proposed retail units could be seriously injured or killed due to the blast leading to building damage/collapse.

7. Information from the HSE Regulatory Team suggests that the hazardous substances consent is being fully utilised and so the consultation zones are representative of the current risks. It should be noted that the HSE assessment is based upon the maximum amount of hazardous substances to be stored at any time, in line with paragraph 068 of PPG.

HSE's advice on the proposed development

8. HSE's advice on developments around major hazards is contained in HSE's land use planning methodology — see <http://www.hse.gov.uk/landuseplanning/methodology.pdf>. In applying that methodology in this case,

- the proposed retail development falls into the HSE Development Type category of 'Indoor use by the public'. The total floorspace of the units is 7,896m², so the appropriate Development Type is DT2.4x2, with a Sensitivity Level (SL) of SL3.
- the proposed development site lies within the middle and outer zones of the HSE consultation distance of the Tennants Distribution Ltd site. The majority of the site lies within the middle zone and the four proposed retail units all lie wholly or partly within the middle zone.
- it is HSE's policy to advise against the granting of planning permission for an SL3 development within the middle zone.

9. The Design and Access Statement which has been submitted with the planning application incorrectly asserts (para. 7.30) that '*within the middle zone, type 2 development being 'developments for use by the general public' is considered acceptable*'. Development Type 2 covers a range of developments which are used by the general public, including housing, hotel/hostel/holiday accommodation, transport links, indoor use by the public and outdoor use by the public. Retail developments fall within category DT2.4, which has three Sensitivity Levels (SL1-SL3) which are determined by the total floorspace of the development. As the total floorspace exceeds 5,000m², this development falls into the highest level, SL3. HSE would not advise against the granting of planning permission for the proposed development within the middle zone if the total floorspace of the retail units did not exceed 5,000m² (SL2).

10. HSE notes that this application involves the redevelopment of a site on which office accommodation was previously provided and that there are existing developments used by the public which are closer to the Tennants site. When providing land use planning advice, HSE does not take into account any existing or permitted use which a site may have. HSE's view is that our advice should be based on the current facts and circumstances affecting public safety and should not be influenced by the fact that a permitted use already exists. We also take the view, which was endorsed by the Advisory Committee on Major Hazards, that the existence of intervening developments should not affect the advice that we give on a proposed development which may appear to be less at risk. However, we recognise that the existing or permitted use of a site may be a material consideration for the planning authority to take into account in reaching a decision.

UK policy on developments around major hazards

11. It is UK Government policy, implementing the requirements of Article 13 of the Seveso III Directive, to control new developments around major hazard sites and major accident hazard pipelines so that they do not significantly worsen the consequences should a major accident occur. One of HSE's published principles is that when giving advice it will take account of the need for the planning authority to maintain appropriate distances between major hazards and developments used by people in order to meet the requirements of the Seveso III Directive.

12. In addition, planning authorities should also take account of the increase in the population at risk in the Consultation Zones around major hazards (paragraph 069 PPG). Cumulative development, by whatever means, particularly within the Inner and Middle Zones, can lead to an increase in the population at risk with each successive development over time. When considering public safety in this decision, Kirklees Council should take account of the increase in the total number of people within the consultation zones since Consent for the Tennants site was granted in 1999, particularly in the higher risk, Inner and Middle Zones.

Conclusion

13. The likelihood of an incident occurring at the Tennants Gelderd Road site, together with the potential consequences of large numbers of the public being present means that this case is of sufficient concern for HSE to advise against the granting of planning permission.

14. The PPG states that any advice from HSE that planning permission should be refused for development for, at or near to a hazardous installation or pipeline should not be overridden without the most careful consideration (paragraph 071). The PPG also indicates that we will consider our role to be discharged when we are satisfied that Kirklees Council is acting in the full understanding of the advice received and the consequences that could follow (paragraph 072).

15. If the Strategic Planning Committee is minded to approve the granting of planning permission for this application, Kirklees Council should give HSE advance notice of this, in accordance with paragraph 072 of the PPG. This requires a local planning authority to allow HSE 21 days from that notice to consider whether to request that the Secretary of State for Housing, Communities and Local Government, call-in the application for their own determination.

Applicant response to the supplementary information provided by the HSE:

"It is recognised that the proposed application site falls within a Health and Safety Executive (HSE) middle and outer zone around a major hazardous installation. In accordance with the HSE's Land Use Planning Methodology:

- Within a Middle Zone, '*developments for use by the general public*', including retail premises, of up to 5,000 sqm of floor space are considered acceptable.
- Within an Outer Zone there are no restrictions on the level of '*development for use by the general public*'.

The proposed development will provide 7,896 sqm of development, which is not considered to be a significantly increase over the figure that the HSE considers acceptable. It is also noted that the HSE methodology does not relate to a site density of people who will potentially be on site, it is a set figure not dependant on site area. As such, if the site had been subdivided and came forward as two separate applications for retail, in accordance with the HSE methodology a total of 10,000 sqm of development would have been considered acceptable on the same site area. As a large site providing predominately comparison goods retail, it is maintained that the general density of people on site at any one time will be relatively low, particularly in relation to the previous office use.

In relation to this it is useful to compare the scheme to the recently constructed Smyths Toy Superstore unit which also sits within the HSE Middle Zone (ref. 2015/62/93163/E). That scheme provides 2,025 sqm of retail floor space within a 0.5 ha site, and is therefore at a density of 5,063 sqm per hectare. The development density of the current scheme will be a very comparable 4,966 sqm per hectare.

As set out in your report to committee, the proposed development will provide significant economic and social benefits, as well as funding for pedestrian infrastructure improvements across the wider area. In light of these significant benefits, it is hoped that when considering the planning balance, Members will be mindful of the merits of the proposed development."

Officer response to health and safety issues:

Officers have carefully considered the supplementary information provided by the HSE as well as taking into account the comments from the applicant.

Officers' opinion remains as set out in the main committee report; that is that on balance the benefits of the proposal outweigh the health and safety risks in this instance.

Representations:

The publicity period for the amended plans and additional information received expired on 17th June 2019. No representations have been received in response to this publicity.

Outline application for the erection of up to 127 dwellings, with details of access**Land at, Blue Hills Farm, Whitehall Road West, Birkenshaw, BD11 2DU***Officer's recommendation*

As noted at paragraph 8.1 of the committee report, Highways England have recommended that the application should not be determined at this stage, as there are drainage matters yet to be resolved. This means that, should the committee resolve to grant outline planning permission, the council would have to consult with the Secretary of State in accordance with article 4 of the Town and Country Planning (Development Affecting Trunk Roads) Direction 2018, and await the Secretary of State's direction before issuing the council's decision.

The current officer's recommendation to committee accounts for this, and allows for the Head of Development and Master Planning to resolve outstanding drainage matters with Highways England and the applicant before the council's decision is issued. Once these matters are resolved, it is expected that Highways England would revise their recommendation, which in turn would obviate the need for consultation with the Secretary of State.

Should, however, drainage matters not be resolved (or not resolved in a timely manner), it is considered that the issuing of outline planning permission should not be further delayed. In such a situation, it would be appropriate for the Head of Development and Master Planning to be authorised to progress matters by consulting with the Secretary of State.

In light of the above, the officer's recommendation is amended as follows:

DELEGATE authority to the Head of Development and Master Planning in order to:

- *Comply with the recommendation of Highways England to resolve outstanding drainage matters.*
- *In the event that drainage matters are not resolved (or not resolved in a timely manner), consult with the Secretary of State in accordance with article 4 of the Town and Country Planning (Development Affecting Trunk Roads) Direction 2018 and seek his/her direction.*
- *In the absence of a direction from the Secretary of State preventing permission being granted, complete the list of conditions including those contained within this report and issue the decision notice.(Amended DW)*

Trees

In response to the comments of the council's Arboricultural Officer (paragraph 8.2 of the committee report), the applicant submitted amended plans showing revised tree crown information, as noted at paragraph 10.70 of the committee report. These illustrate that likely impacts on most adjacent trees would be less significant than was previously thought (based on the applicant's earlier drawings), however the council's Arboricultural Officer has noted that there

would be little space between plot 88 and the adjacent tree canopies, and that this is likely to lead to increased pressure to prune the trees, which is of concern. It remains the case, however, that layout and a specified number of units would not be fixed at outline application stage, and this unresolved matter can be addressed with amended drawings (demonstrating sufficient space between the new dwellings and existing trees, allowing for their continued growth) at Reserved Matters stage.

Highways

In response to the points raised at paragraph 10.42 of the committee report regarding the loss of parking spaces at Blue Hills Farm and its farm shop, the applicant has submitted drawings (for information only, and not for approval) illustrating how 24 parking spaces (including two disabled parking spaces) could be provided within the grounds of Blue Hills Farm. These would necessitate the demolition of two existing farm buildings, and would need to be approved under a future, separate planning application, as most of the proposed spaces would be outside the current application site.

Planning Application 2017/90322

Item 17 – Page 93

Erection of 7 town houses

Land at, Warwick Road, Batley

Kirklees Local Plan (2019):

6.2 The application site is allocated as urban green space.

LP1 – Presumption in favour of sustainable development

LP2 – Place shaping

LP3 – Location of new development

LP7 – Efficient and effective use of land and buildings

LP11 – Housing mix and economy

LP20 – Sustainable travel

LP21 – Highway safety and access

LP22 – Parking

LP24 – Design

LP28 - Drainage

LP30 – Biodiversity and geodiversity

LP52 – Protection and improvement of environment

LP53 – Contaminated and unstable land

LP61 – Urban Green Space

LP63 – New open space

10.0 Appraisal

Loss of urban green space

The applicants have submitted a supporting statement in respect of Policy LP61 and the loss of urban green space. The contents are summarised below and provide justification to the loss of urban greenspace in this instance.

The land was acquired by the Zakariya Muslim Girls School in the early 1990s. In approximately 1997/98 the school secured funding from Batley Action limited to carry out ground investigation to convert the land into formal playing field. Due to the high cost associated with the works to 'cut and fill' in addition to remediation the works were never undertaken. As a consequence only a small proportion of the school grounds were used for formal recreation. This area has been regularly maintained but the remainder of the land has been vacant and overgrown. The statement shows that the smaller area used by the school reduces in useable area over the years to the point it disappears in 2016. This coincides with a decrease in number of pupils and relocation to the nearby Taylor Street Annex. In 2018 the school finally closed and the buildings demolished. There is no longer a need for the grounds as formal or informal playing fields.

The amount of formal playing space on the site is very limited and was always confined to an area close to the school where the land is relatively flat or on shallow slopes. The remainder of the site is steeply sloping and waterlogged and is not suited to formal playing fields or recreation.

Within the vicinity of the site there is provision for both informal and formal play all in close proximity.

Visual Amenity:

The agents has provided further justification for the loss of the land due to the lack of visual amenity, landscape and biodiversity value summarised below:

The site is a piece of land which is vacant and unkempt and has been subject of fly tipping. There is no tree cover and appears as a neglected site with little visual or landscape value. Part of the site is covered by hardstanding that remain from the former school use. An Ecological Survey concluded that the habitats have no intrinsic botanical value and their loss would be limited. The report was accepted by the Kirklees Council Biodiversity Officer.

Officers have assessed the loss of the land against Policy LP61 and concluded for the reasons outlined in the report and above that the development proposals are acceptable in this instance.

Erection of 10 semi-detached houses**Land at, Warwick Road, Batley, WF17 6AR**

6.2 The application site is allocated as urban green space.

LP1 – Presumption in favour of sustainable development

LP2 – Place shaping

LP3 – Location of new development

LP7 – Efficient and effective use of land and buildings

LP11 – Housing mix and economy

LP20 – Sustainable travel

LP21 – Highway safety and access

LP22 – Parking

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Officers have assessed the loss of the land against Policy LP61 and concluded for the reasons outlined in the report and above that the development proposals are acceptable in this instance.

Planning Application 2018/93949

Item 19 – Page 121

Erection of 5 town houses

Land at, Warwick Road, Batley Carr, Batley, WF17 6HY

6.2 The application site is allocated as urban green space.

- LP1** – Presumption in favour of sustainable development
- LP2** – Place shaping
- LP3** – Location of new development
- LP7** – Efficient and effective use of land and buildings
- LP11** – Housing mix and economy
- LP20** – Sustainable travel
- LP21** – Highway safety and access
- LP22** – Parking
- LP24** – Design
- LP28** - Drainage
- LP30** – Biodiversity and geodiversity
- LP52** – Protection and improvement of environment
- LP53** – Contaminated and unstable land
- LP61** – Urban Green Space
- LP63** – New open space

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Officers have assessed the loss of the land against Policy LP61 and concluded for the reasons outlined in the report and above that the development proposals are acceptable in this instance.

Planning Application 2018/93568

Item 20 – Page 135

Change of use of existing unit in a mixed Class A1/A2/A3 retail development to form a mixed A1/A2/A3/A4/D2 retail and leisure development, internal alterations and reconstruction of upper level, with extension, external slide and formation of roof terrace for use as sky bar

Kingsgate Centre, Store 1, King Street, Huddersfield, HD1 2QB

Highways

During continued discussions the applicant has confirmed that arrangements shall be in place for a reduced parking fee scheme for users of the cinema. These would be similar to the operation of other city-centre based cinemas.
