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**Report of the Head of Development and Master Planning**

**HUDDERSFIELD PLANNING SUB-COMMITTEE**

**Date: 03-Oct-2019**

**Subject: Planning Application 2019/92566 Change of use of parts of 3rd and 4th floors to laboratory (B1) and training facility with ancillary overnight accommodation (D1), with engineering operations including the formation of car parking (Listed Building within a Conservation Area) Titanic Mill, Low Westwood Lane, Linthwaite, Huddersfield, HD7 5UN**

**APPLICANT**

David Oates, Universal  
Learning Streams Ltd

**DATE VALID**

08-Aug-2019

**TARGET DATE**

03-Oct-2019

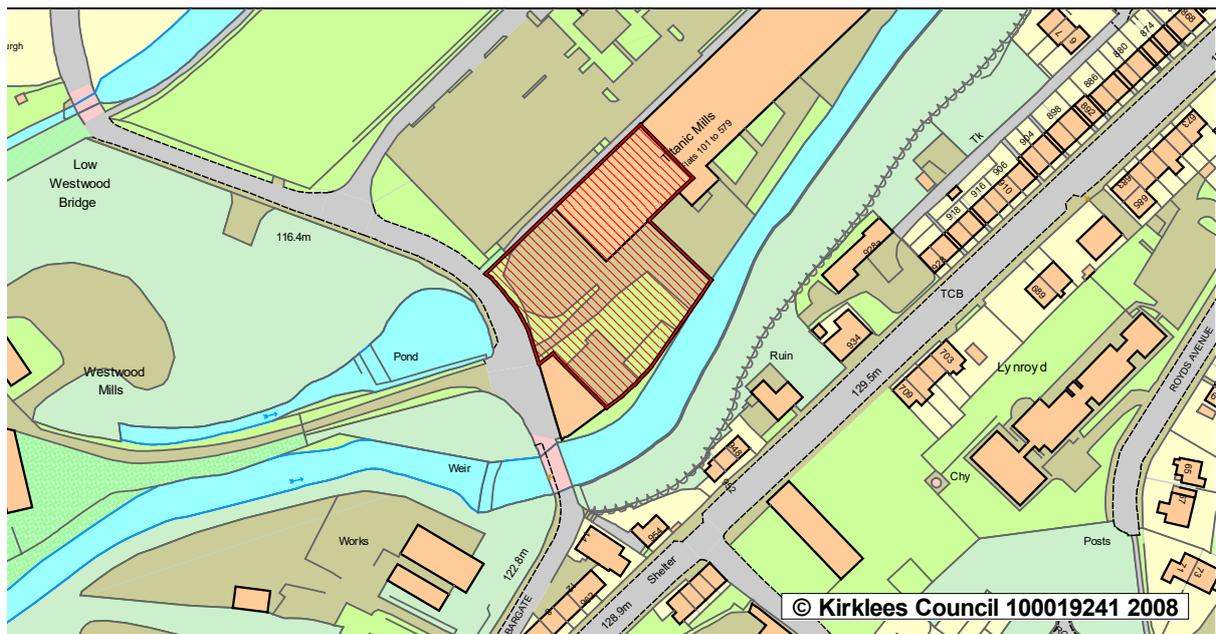
**EXTENSION EXPIRY DATE**

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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: Colne Valley Ward**

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 Development and Master Planning in order to complete the list of conditions including those contained within this report.

### **1.0 INTRODUCTION**

- 1.1 The application seeks the change of use of parts of the 3rd and 4th floors to a laboratory (B1) and training facility with ancillary overnight accommodation (D1), with engineering operations that include the formation of a car park.
- 1.2 The application is brought to committee as officers consider the volume of public representations received in opposition to the scheme to be significant, in line with the requirements of the Scheme of Delegation to Officers.

### **2.0 SITE AND SURROUNDINGS**

- 2.1 The site forms part of the Titanic Mills complex, which hosts residential properties as well as a spa and associated sleeping accommodation. The mill was granted planning permission for conversion in 2001, with 125 residential apartments approved (amongst other uses, including a restaurant). Not all of these have been implemented however, including the restaurant, with parts of the mill remaining vacant.
- 2.2 The river Colne runs along the south and east boundary of the site, to the building's rear. Car parking for the residential and spa use is located to the front / north of the building. Access to the car park is taken from Low Westwood Lane. The immediate setting is semi-rural and open, with the Mill being located between Linthwaite and Wellhouse.
- 2.3 Titanic Mills is a Grade 2 Listed Building and also falls within the Linthwaite Conservation Area. The building has the following listing description;

*Circa 1911. Massive woollen mill. Hammer dressed stone. Triple, hipped slate roof. 6 storeys. 26 bays by 6 bays of industry casements. Corner bays of paned round arched windows, break forward slightly and are surmounted by parapet. Other casements have shallow segmental head. On North West elevation, central 7 bays break forward slightly and are surmounted by ashlar parapet with dies. Near central square stair tower on south east side, which rises above eaves level and has triple round arched windows and is surmounted by bracketed cornice and parapet.*

### 3.0 PROPOSAL

3.1 An area of circa 1800sqm evenly split between parts of the 3<sup>rd</sup> and 4<sup>th</sup> floor, is to be converted to B1 (Business) and D1 (Non-residential institutions) uses, with ancillary (to D1) sleeping accommodation.

3.2 The B1 use is to function as a Laboratory and would have a floor area of circa 150sqm on the 3<sup>rd</sup> floor. The applicant has provided the following statement on the B1 use;

*The laboratory will be used for the “testing” of computers/laptops and telephones in connection with investigations by public agencies such as the Police, HSE and Trading Standards. Evidence will also be sent by Lawyers etc. in connection with investigations/cases. The testing will be related to data recovery. The applicants have confirmed that this will be the sole work carried out at this facility.*

*It was originally considered that some other minor materials testing could be carried out here (still B1 uses), however, this is not now considered necessary. No testing chemicals will be stored on site.*

*In effect the laboratory will receive computer equipment and telephones, technicians will connect these to their own equipment and work on them. It is probably a quieter use than most offices.*

3.3 The D1 use would specifically be a Training Facility. It would be sited on the 3<sup>rd</sup> floor and have an area of circa 700sqm (including circulation space). The intended training includes;

1. The training of spa staff in treatments
2. Training in customer and public relations
3. Training of overseas police officers

Training would be limited to adults. Some of these will include day courses. Others, such as the overseas police officers, will take several days. To accommodate this, the fourth floor is to be dedicated to accommodation associated with the D1 use. 30no. singles bed-spaces are to be formed, with central communal area.

3.4 The proposed hours of use for the B1 and D1 uses are 9 – 6, Monday to Sunday. The D1 ancillary accommodation would operate outside of these hours.

3.5 Access to the B1 and D1 uses would be through a dedicated entrance on the south-west facing elevation, leading to a reception area. An existing staircase / lift is to be used solely by the proposed B1 and D1 uses. Doors connecting the proposed uses to residential communal circulation areas are to be fire doors and would not be used otherwise.

- 3.6 No external works are proposed to the building. However, engineering operations are proposed to form an additional 34 car parking spaces to the south of the host building. An unused existing access onto Low Westwood Lane is to be used. The existing gate would be removed and a new remote operated electric gate installed, set back circa 8.5m from the road. The car parking area will be associated with the proposed B1 and D1 uses only.
- 3.7 Please note that the proposal includes ground floor plans showing a restaurant that is not currently in place. This use is not part of this application, but has been previously approved and remains an extant permission. The plan has been submitted to show the access arrangement to the upper floors.

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

##### **4.1 Application Site (including wider Titanic Mills and Titanic Spa complexes)**

2001/92048: Conversion of mill (1911 building) to 125 residential apartments (floors 1-5) mixed uses at ground floor level including public restaurant (class a3) hotel type bedroom suites (class c) offices (class b1) caretakers flat and health and fitness club (class d2) with related access car parking, landscaping and demolition of ancillary buildings (listed building) – s106 full permission (allied LBC ref. 2001/92049)

2003/92686: Formation of 5 no. additional apartments (1911 building) (listed building) (modification of approval 2001/62/92048/w1) – conditional full permission (allied LBC ref. 2003/92687)

2004/92856: Change of use of part of first floor to form 16 no. hotel rooms (listed building) – conditional full permission (allied LBC ref. 2004/92857)

2004/95450: Formation of bore hole water tank enclosure with screening (within a conservation area) – conditional full permission

2007/92120: Formation of 21 apartments on floors 1 and 5 (listed building within a conservation area) – conditional full permission (allied LBC ref. 2007/92121)

2008/91221: Change of use and alterations to convert 22 no apartments into 32 hotel suites (listed building within a conservation area) – conditional full permission (allied LBC ref. 2008/91222)

**Note:** This application related to the areas of the 3<sup>rd</sup> and 4<sup>th</sup> floor which are subject to this application. It also included the formation of additional parking, within part of the proposed parking area.

2011/90693: Extension of time limit for implementing existing permission number 2008/91222 for listed building consent for alterations to convert 22 no. apartments into 32 hotel suites (within a conservation area) – consent granted

2011/91051: Creation of spa garden (within a conservation area) – conditional full permission (allied LBC ref. 2011/91052)

2011/92158: Erection of temporary building (listed building within a conservation area) – conditional full permission (allied LBC ref. 2011/92159)

2012/90257: Variation of condition one on previous permission 2011/62/92158/w for erection of temporary building (listed building within a conservation area) – VOC approved (allied LBC ref. 2012/90258)

2013/93252: Certificate of lawful use for existing change of use and alterations to convert 22 no. apartments into 32 hotel suites (listed building within a conservation area) – certificate of lawfulness granted

2019/92567: Listed building consent for works to change the of use of parts of 3rd and 4th floors to laboratory (b1) and training facility with ancillary overnight accommodation (d1) with engineering operations including formation of car parking (listed building within a conservation area) – ongoing (current application's allied LBC)

## 4.2 Surrounding Area

### *Westwood Mill*

2005/90819: Listed Building Consent for part demolition, conversion or redundant mill buildings and new build to form 108 apartments with ancillary facilities (within a Conservation Area) – Consent Granted

2005/90818: Partial demolition, conversion or redundant mill building and new built to form 108 apartments with ancillary facilities (listed building within a Conservation Area) – Conditional Full Permission

2010/92708: Extension to time limit to previous permission 2005/90818 for conversion of mill building and new build to form 108 apartments with ancillary facilities and partial demolition (Listed Building within a Conservation Area) – Invalid

2018/20130: Pre-application for part demolition and part conversion to form 64 apartments and 66 dwellings at Westwood Mill, Lowestwood Lane, Linthwaite – Presented to the Strategic Planning Committee as a Position Statement on the 5<sup>th</sup> of July, 2018.

## 4.3 Enforcement

COMP/09/0278: Erection of gazebo – NFA: application approved

COMP/12/0160: Alleged breach of planning conditions – NFA: no evidence of breach

**Note:** The above enforcement complaint principally related to parking restrictions imposed by the site owner upon residents, which in turn led to parking on Low Westwood Lane. This formed a private matter between the parties involved and, as ample parking was still available on site, no conditions were breached. Concerns were also raised over spa guests staying in residential units, however it was identified that there was no breach in planning control as guests were effectively using the apartments as a short term residency.

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

- 5.1 Officers sought clarification on the proposed B1 use, to ensure they were satisfied that the operation of the site would not cause detriment to the amenity of nearby residents. This was provided within a statement, along with other discussions taking place providing further details on the proposed use. Based on these details, officers were satisfied that the use would fall into the B1 use class.

## **6.0 PLANNING POLICY**

### Kirklees Local Plan (2019)

- 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 statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

- 6.2 The site is Unallocated on the Local Plan Policies Map and falls within the Linthwaite Conservation Area.

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP3** – Location of new development
- **LP7** – Efficient and effective use of land and buildings
- **LP21** – Highway safety and access
- **LP24** – Design
- **LP27** – Flood risk
- **LP28** – Drainage
- **LP30** – Ecology and geodiversity
- **LP35** – Historic environment
- **LP51** – Protection and improvement of local air quality
- **LP52** – Protection and improvement of local environmental quality
- **LP53** – Contaminated and unstable land

### National Planning Guidance

- 6.4 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF), published 19<sup>th</sup> February 2019, and the Planning Practice Guidance Suite (PPGS), first launched 6<sup>th</sup> March 2014, together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- **Chapter 2** – Achieving sustainable development
- **Chapter 4** – Decision-making
- **Chapter 6** – Building a strong, competitive economy
- **Chapter 8** – Promoting healthy and safe communities
- **Chapter 9** – Promoting sustainable transport
- **Chapter 11** – Making effective use of land
- **Chapter 12** – Achieving well-designed places

- **Chapter 14** – Meeting the challenge of climate change, flooding and coastal change
- **Chapter 15** – Conserving and enhancing the natural environment
- **Chapter 16** – Conserving and enhancing the historic environment

### Supplementary Planning Guidance / Documents

- Kirklees Local Plan Supplementary Planning Document Consultation Draft – Highways Design Guide

## **7.0 PUBLIC/LOCAL RESPONSE**

7.1 The application has been advertised via site notice, press notice and through neighbour letters to addresses within Titanic Mills and bordering the site. This is in line with the Councils adopted Statement of Community Involvement. The end date for publicity was the 14<sup>th</sup> of September, 2019.

7.2 46 representations have been received in response to the proposal. The following is a summary of the comments made;

- The building is residential. A laboratory use is not compatible with residential units. The building was originally designed as 'green, eco-friendly'. 'This is not what leaseholders invested in' and will impact on the value of the residential units. Council taxing banding should be changed in approved.
- B1 uses are defined as being appropriate within 'residential areas' within the use class order. A distinction is made to the proposal being within a residential building.
- Question over where chemicals, flammable or otherwise, and gas cylinders are to be stored.
- Prior to 2011 Titanic Mill's existing car park included a shared area for second cars, visitors and tradesmen. This was removed, with vehicles parking in the previous shared area being fined and caused these vehicles to be parked on Low Westwood Lane. This has led Low Westwood Lane to become unsafe and visually unattractive.
- Circa 40 apartments are used by the Spa for guests, with more day guests and visitors to the bistro. It is claimed that the parking has been taken to accommodate this commercial use, to the detriment of residents.
- The existing car parking plan is marked up incorrectly.
- The 'existing access drive' is infrequently used, only a handful of times a week. Vehicles parked on the street would limit its sightlines and make it unsafe.
- The proposal does not include access to the leaseholder garden, which is being reduced in size and which has already had its access from the building restricted. Residents have legal access rights to the garden and the unimplemented over-spill car park. The way the car park is run has been taken to court. A deed of variation will be required between property owners and the landlord.
- Concerns over security – plans appear to show students / staff of the proposed uses accessing the application areas through the residential lifts. The plans show doors leading directly from the proposed uses into residential circulation spaces, which could be used by staff / students to cut through the building to the spa bistro / facilities. Concerns that hazardous waste will be kept on public hallways.

- Lifts 2 and 3 would be used by the proposed development, reducing the amenity of residents. The coming and going of visitors will impact on the living standards of local residents.
- The building has had historic problems with heating and water. The proposal would increase demand on these utilities and is a cause for concern.
- The building has issues with ventilation and extraction, with no currently working system. The proposed development would exacerbate this concern and potentially delay it being corrected. No details on ventilation have been provided. This causes issues of damp and air circulation. Users of the new facilities will not pay service charge, but use the building, increasing the pressure on residents.
- The proposed development is to increase profit and income for the owners without thought to the 'niceties contained in the original planning permission.' The building has already become too commercialised, harming the amenity of residents and local highway safety.
- The main car park typically has numerous empty spaces. Why is this not being utilised and a new car park being created over the garden-space for residents?
- Query over the cumulative impact on the local Highway of the existing Mill use, proposed uses and future development of the adjacent mill.
- The staircase to be used by the development is the largest and only way to get furniture to upper levels. Without access to it, residents will require an alternative.
- Insufficient detail has been provided on the laboratory use, including what equipment would be within and therefore safety cannot be assessed. Fears that it could pose a hazard to health (fume cupboards, x-ray equipment, weapons, toxic substances, chemicals). Also, it is anticipated to increase fire risk. What's to stop the laboratory introducing these in the future, if not currently proposed?
- The proposal would move the building towards commercial/industrial usage. There are other buildings/sites in the area that would be more appropriate, such as Globe Mill.
- The proposal would remove residential units, which contribute to the council's housing supply. These units are ideal for elderly, who are in most need.
- A forensic lab would attract crime to the area and upon local residents.
- Spa guests already caused disruption, such as on balconies on an evening. This would be exacerbated by the proposed student visitors. Students will have poor behaviour and would cause noise, litter and general inconvenience for residents. There will be no effective management of these people to control their noise. More non-residences will harm the privacy of occupiers.
- The proposed uses, operating through the day, would disproportionately impact upon those who work from home, are retired or who work night shifts.
- Disruption and noise caused during construction will harm the amenity of residents.
- The building has an 11pm curfew which may not be abided to by students.
- The coming and going of students and workers will add to the already disruptive environment and is unlikely to be consistent with the 'peaceful resident, communal living'.
- The development would harm the original character of the mill.
- The car parking will harm the setting of the listed building and the nearby setting of the Grade 2\* Lower Westwood Mill. Residents sought to live in a rural listed building, and the introduction of a car park would harm their living standards.
- The car park would be within a flood zone.

- Past permissions have not complied with their conditions; therefore no new permissions should be granted as it would be supporting the developer breaching conditions.
- While noting the comments from the applicant regarding the use of the laboratory, given previous concerns about the development and the Council's inability to enforce these, 'we are not confident what will happen if this proposal is passed. It is our belief that once approved practices will drift'.
- Questions over whether the site's existing servicing and loading / uploading could accommodate the additional usage.
- Query whether any risk assessment has been undertaken as part of the laboratory proposal.
- Query over the length of the public representation period, which is considered short. Further, questions whether all the owners know. Only circa 20 owners live in the building, with other units being rented.
- Object to the development not arranging a pre-application meeting or advertisement of the proposal.

#### Ward member involvement

- 7.3 Following the level of public objecting becoming apparent local ward members were notified of the proposal. The site falls within Colne Valley Ward, with the members being Cllr Nell Griffiths, Cllr Rob Walker and Cllr Lesley Warner.
- 7.4 Cllr Rob Walker responded, raising concerns over the parking and highways impact of the proposal as well as highlighting planning conditions that have been breached on the site in the past. Cllr Walker indicated a desire for a committee determination, with officers confirming this would take place due to the level of public objection.
- 7.5 The office of Thelma Walker MP have expressed interest in the proposal, querying several aspects of the proposal and highlighting the concerns from local residents. Officers provided an overview of their assessment in response.

### **8.0 CONSULTATION RESPONSES**

#### 8.1 Statutory

K.C. Highways: No objection subject to condition.

The Environment Agency: No objection: the site falls within the Flood Risk Standing Advice category.

#### 8.2 Non-statutory

K.C. Conservation and Design: No objection.

K.C. Ecology: No objection subject to condition.

K.C. Lead Local Flood Authority: No objection.

## 9.0 MAIN ISSUES

- Principle of development
- Urban Design, including heritage considerations
- Residential Amenity
- Highway issues
- Other Matters
- Representations

## 10.0 APPRAISAL

### Principle of development

#### *Sustainable Development*

- 10.1 NPPF Paragraph 11 and LP1 outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation. The dimensions of sustainable development will be considered throughout the proposal.
- 10.2 Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.

#### *Land Allocation (Unallocated)*

- 10.3 The site is without notation on the KLP Policies Map. PLP2 states that;

*All development proposals should seek to build on the strengths, opportunities and help address challenges identified in the local plan, in order to protect and enhance the qualities which contribute to the character of these places, as set out in the four sub-area statement boxes below...*

The site is within the Huddersfield sub-area. The listed qualities will be considered where relevant later in this assessment.

#### *Change of use to Commercial development*

- 10.4 The floor area proposed to change use is currently vacant. It has an extant permission to be converted into 12 flats, but this has not been implemented in over a decade. The site is not allocated as housing, therefore the Local Plan has no specific policies against the conversion / loss of residential units. While there is a general principle to support housing growth there is no policy against residential conversions. Given the limited number of units in question and limited prospect of them being brought forward, on the planning balance officers have no objection to the loss of the site's potential residential use.

- 10.5 Neither of the proposed uses are classified as main town centre uses. The site is unallocated land and therefore does not have any specific policies relating to business use. In general, policies contained within the Local Plan and NPPF seek to support the needs and growth of businesses, with key objectives of building upon the commercial strengths of Huddersfield. Other policies support the re-use of existing and vacant buildings; as addressed above, while a residential use has been approved, it has not been implemented and therefore the site is deemed vacant floor-space.
- 10.6 Given the above considerations, the principle of the proposed development is considered to be acceptable. Consideration must be given to the local impact, outlined below.

Urban Design, including heritage considerations

- 10.7 LP24 of the Local Plan outlines general design guidance. The Policy seeks to promote good design, by ensuring the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape. This conforms to the general guidance of Chapter 12 of the NPPF.
- 10.8 The site is located within the Linthwaite Conservation Area and the host building is Grade 2 Listed. Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 introduce a duty in respect of Listed Buildings and Conservation Areas. Special attention shall be paid to the desirability of preserving or enhancing the character or appearance of designated heritage assets. Additionally, Policy LP35 and NPPF Chapter 16 outline the principle of development and restrictions for development in Conservation Areas.
- 10.9 Paragraph 190 of the NPPF requires LPAs to identify the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset). The heritage value of Titanic Mills is deemed to be its architectural form and setting as an early 20th century mill. The Linthwaite Conservation Area's Appraisal concludes the heritage value of the area to be its high architectural quality, settlement pattern, and rural tranquillity.
- 10.10 No external physical alterations are proposed to Titanic Mills as part of this application. Internal physical works to the Listed Building would fall under consideration within the associated Listed Building Consent (ref. 2019/92567).
- 10.11 The proposal does however include external engineering operations to form additional car parking. This is to be located around the south of the building. The site already has extensive car park to the north and west of the building. Currently, the area the proposed car parking is to be located is a mixture of unused surfaced areas and soft landscaping.
- 10.12 Surfaced areas around historic mills, operating ancillary to the purpose of the mill, are not atypical. Furthermore, the proposed works are low profile and will not interfere with sightlines towards the Mill and views of the open environment around it, this includes the relationship with Westwood Mills to the north west of the site. Therefore, Planning Officers and Conservation and Design Colleagues, are satisfied that the proposed surfacing and car parking would not impact upon the setting of either the host listed building or the wider Linthwaite Conservation Area.

- 10.13 In conclusion, the proposed development would not harm visual amenity or the historic environment, in accordance with the aims and objectives of LP24 or LP35 of the Kirklees Local Plan or Chapters 12 and 16 of the National Planning Policy Framework.

#### Residential Amenity

- 10.14 No physical works are proposed to the building to cause harmful overbearing or overshadowing. The development is to make use of existing windows, none of which would cause materially harmful overlooking of neighbouring dwellings or private lane.
- 10.15 Consideration must be given to other harmful impacts to residential amenity, specifically in this case through pollution, negative environmental factors and disruption. Residential uses would be sited alongside to the proposed B1 and D1 uses on the 3<sup>rd</sup> floor, being adjacent to and below. The ancillary accommodation would be sited on the 4<sup>th</sup> floor and, as residential accommodation, is considered compatible with residential uses. The accommodation being ancillary to the D1 use can be secured via condition. It is noted that the 4<sup>th</sup> floor (and 3<sup>rd</sup> floor) has an extant permission for conversion to hotel suites which the ancillary accommodation would mimic in terms of use and impact.
- 10.16 First considering the B1 use, by their definition within The Town and Country Planning (Use Classes) Order 1987 (as modified) they are limited to uses which '*can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit*'. The reference of 'residential area' in the B1 description is established to be notional and is therefore irrespective of the actual location of the site in question; the test is not based on local conditions, but a general test of whether the use would impede on amenity by reason of the given criteria.
- 10.17 Officers sought confirmation that the proposed B1 use could be reasonably expected to operate within these limitations. This led to the statement which is provided in full in paragraph 3.2. In brief, the laboratory would be used principally for computer forensics and related operations, which includes carrying out data recovery in connection with investigations by public agencies such as the Police, HSE and Trading Standards. Officers are satisfied that such operations would be low impact, not materially different to the operation of an office. This, plus the relatively small floor area of the laboratory of 110sqm (excluding ancillary rooms), are considered to limit the potential for harmful pollution as per the closed list of B1 Uses, with specific consideration given to noise.
- 10.18 Representations have raised concerns of the keeping of chemicals associated with the B1 use, although the applicant has stated this will not be the case, given the intended operation (as per paragraph 3.2). Nonetheless, as confirmed by K.C. Environmental Health, the keeping of chemicals would be governed by separate legislation outside the scope of Planning (including the Health and Safety at Work Act 1974 and Control of Substances Hazardous to Health Regulations 2002) and would not form a material consideration. Given this, and the imprecision on the definition of 'chemical', a condition relating to

the control and/or management of chemicals would not be reasonable, relevant to planning or enforceable. Thus it would fail the NPPF's six tests for conditions.

- 10.19 Turning to the D1 use, to operate specifically as a training facility, would host dedicated computer rooms, a lecture hall and break out rooms. Other rooms would be dedicated to providing facilities for spa training. The operations to take place are not anticipated to be a significant noise generators. As noted previously, the associated bed space accommodation is considered compatible with adjacent residential units and would operate similar to the previously approved hotel suites (via app 2011/90693). Given its use hours of use conditions are would not be reasonable, however its operation is to be tied to the proposed D1 use via condition. Representations have raised concerns over 'noisy students', however it is noted that the training facilities are to be targeted at adults and professionals. Therefore, for planning purposes, any undue noise created beyond that typically associated with residential accommodation would be a matter for K.C. Environmental Health (or police, in extreme circumstances).
- 10.20 Representations have expressed objection to the movements and general impact of introducing commercial uses into a 'residential building'. In response, the applicant has confirmed that the proposed uses would have their own private car park, entrance and circulation spaces. Doors shown connecting the residential hallways to the proposed uses would be fire-doors that would not be used elsewhere. Therefore interactions between residents and commercial operations would be limited. Officers would also highlight that Titanic Mills has, since its residential conversion, included commercial elements. The original permission included residential alongside hotel suites, offices, a restaurant, and fitness club albeit all sited on the ground floor. Subsequent applications approved the floor space under consideration to be hotel suites. While the proposed commercial intensification is acknowledged, given the circumstances of the application outlined above, the low intensity of use and the mitigation measures proposed, on balance officers consider the proposed B1 and D1 uses compatible with adjacent neighbouring residential units.
- 10.21 Notwithstanding the above, while officers are satisfied that the proposed uses would not cause harm to the amenity of neighbouring residents through their operation, this is subject to an appropriate noise mitigation strategy being undertaken and implemented, securable via condition, alongside suitable hours of use (excluding the bed space accommodation).
- 10.22 In regards to the noise mitigation strategy, this will require the applicant to describe the likely noise that will arise from their proposed activities and determine the impact that this noise will have on neighbouring noise sensitive premises taking into consideration the existing sound insulation of the separating walls & floors. This is to ensure that, any noise be caused by the proposed uses can be appropriately mitigated.

- 10.23 Considering hours of use, the applicant seeks 0900 – 1800, Monday to Sunday. The hours of 0900 – 1800 Monday to Friday do not raise concerns. Weekend operations are necessary for the laboratory, given the nature of its work identifying evidence. The D1 use is partly intended to be tailored at overseas police officers, or other longer training events, and therefore preventing weekend use would limit the operational flexibility of the use. Given this need, it is proposed to allow the weekend hours on a temporary, one year, basis. The hours of use are not at unsocial times, and with the proposed noise mitigation officers do not anticipate the weekend operation to cause undue harm. However, as atypical working days, officers seek to retain an element of control to assess the practical impact following a period of operation.
- 10.24 The above assessment is based on the specific proposed uses; a B1 Laboratory and D1 Training Facility. However, should the development be implemented, thereafter the site could change to other uses which also fall within the approved use classes, without subsequent planning permission. This is not considered a concern for the B1 use, which would retain its requirement to not cause a detriment to amenity alongside the proposed hours of use and noise mitigation measures. It is however proposed to condition the B1 floor-space to that shown on the plans, as without such a condition an approval would allow fluidity between the uses with a potentially different impact on adjacent residents compared to that assessed. Regarding alternative D1 uses, these include nurseries, places of worship and health clinics. While the same use class, these have the potential to operate materially differently to the proposed Training Facility and could cause harm to residential amenity and/or highway safety. Therefore, if minded to approve, a condition is to be imposed limiting the D1 use to the specified Training Facility.
- 10.25 No details on external lighting within the car park have been provided. To ensure the suitable assessment and control of light pollution, to prevent harm to nearby residents, a condition requiring a lighting scheme be approved prior to installation is to be included.
- 10.26 In summary, for the reasons given and subject to the conditions detailed above, on balance the proposal is not considered unduly detrimental to the amenity of neighbouring residents. The application is deemed to comply with policies LP24 and LP52 of the KLP and Chapters 12 and 15 of the NPPF.

#### Highway issues

- 10.27 The proposal seeks to utilise existing floor space within the mill building. The proposed uses are not anticipated to generate highway movements materially different to the previously approved uses of the floor space, therefore not raising concern. The application includes the formation of 34 off-street car parking places, which is considered adequate for the uses sought. The parking layout is considered logical and practical, with the layout as proposed with appropriate surfacing to be secured via condition.
- 10.28 The new car park is to use an existing unused access from Low Westwood Lane. This is adjacent to an outbuilding, which abuts the highway and limits the available sightlines. The plans show a footway that is not in place at this time; the footway is required to achieve the necessary sightlines and would also provide pedestrian safety enhancements towards Linthwaite centre.

Therefore the provision of the footway is to be secured via condition. Regarding the proposed replacement gate, it is indicated to be set back 8.5m from the carriageway. This is welcomed, as it allows larger vehicles to idle off the Highway while awaiting the gates opening. A condition is to be imposed to ensure the gate is installed in accordance with this arrangement.

- 10.29 Subject to the stipulated conditions officers consider that the proposed development would not harm the safe and efficient operation of the Highway, in accordance with the aims and objectives of LP21 of the KLP.

### Other Matters

#### *Air Quality*

- 10.30 In accordance with government guidance on air quality mitigation, outlined within the NPPG and Chapter 15 of the NPPF, and local policy contained within LP24 and LP51 and the West Yorkshire Low Emission Strategy Planning Guidance seeks to mitigate Air Quality harm. Given the scale and nature of the development officers seek the provision of electric vehicle charging points, in 10% of parking spaces to be created. The purpose of this is to promote modes of transport with low impact on air quality, in line with the aforementioned policies.

#### *Contamination*

- 10.31 Given the site's historic use, the site has been identified as being potentially contaminated. However the proposed uses relate to the 3<sup>rd</sup> and 4<sup>th</sup> floors of a converted building, therefore any risk of contamination has been previously addressed. Groundworks will be required for the development of the proposed car park, but the end use of a car park is not considered to be particularly sensitive to land contamination. Nonetheless, in the interest of safety, a condition is to be imposed relating to unexpected contamination, to comply with the aims and objectives of LP53.

#### *Climate change*

- 10.32 Chapter 12 of the Local Plan relates to climate change and states that: *'Effective spatial planning is an important part of a successful response to climate changes as it can influence the delivery of appropriately sited green infrastructure and the emission of greenhouse gases. Planning can also help increase resilience to climate change impact through the location, mix and design of development'*. This is also reflected in the NPPF as a core land use planning principle. The NPPF emphasis that responding to climate change is central to the economic, social and environmental dimensions of sustainable development.
- 10.33 The proposal seeks to re-use part of an existing building, in an area of floor space currently vacant. Furthermore the proposal is to provide environmental mitigation in terms of electric vehicle charging points and through seeking an Ecological Design Strategy. Socially and economically it would provide job growth and support the needs for business. The proposal is deemed to comply with the objectives of sustainable development and responds accordingly to climate change needs.

### *Flood Risk and Drainage*

- 10.34 A flood based sequential test is not required for the development, as it relates to 'minor development' for flood risk purposes. However a site specific flood risk assessment is required.
- 10.35 The site falls within Flood Zone 2. In regards to flood risk, the proposed uses (B1 and D1) would be classified as 'less vulnerable', although the ancillary sleeping accommodation would be 'more vulnerable'. Notwithstanding this, the application relates to a 2<sup>nd</sup> and 3<sup>rd</sup> floor, which are well above the flood zone. In their consultation response, the Environment Agency raises no objection, but indicates that the site should be subject to their 'Standing Advice for Vulnerable Development'. This relates to surface water management, access and evacuation and floor levels. Given the specifics of this proposal, with the B1 and D1 uses being above the estimated flood level, officers are satisfied that there is no flood risk for the development. However, informative relating to flood risk may be placed on the decision notice, if minded to approve.
- 10.36 Notwithstanding this, the proposal seeks to increase surfacing within the flood zone through the car parking. It is intended to discharge surface water to a nearby watercourse, with the Colne River being adjacent. The Lead Local Flood Authority do not object to the proposal, however have requested formal details of drainage arrangement via condition.
- 10.37 In summary, subject to the given condition, officers are satisfied that the proposal would comply with the aims and objectives of LP27 and LP28 of the LP and Chapter 14 of the NPPF.

### *Ecology*

- 10.38 The site falls within Bat alert layer, Twite buffer zone and the adjacent River Colne is a defined Habitat Network. Development of the site therefore has the potential to impact upon local species.
- 10.39 The internal works are not deemed detrimental to impact upon local ecology. However, the external engineering works have the potential to if not implemented accordingly. This includes through inappropriate lighting. Furthermore, Planning Policy requires development to result in a net benefit to local ecology.
- 10.40 K.C. Ecology do not object to the proposal, however to ensure appropriate management of the site and lasting enhancements are undertaken they have requested a condition requiring an Ecological Design Strategy be submitted as well as an external lighting strategy. Planning officers consider this reasonable, in accordance with the aims and objectives of LP30 of the LP and Chapter 15 of the NPPF.

### Representations

- The building is residential. A laboratory use is not compatible with residential units. The building was originally designed as 'green, eco-friendly'. 'This is not what leaseholders invested in' and will impact on the value of the residential units. Council taxing banding should be changed in approved.

- B1 uses are defined as being appropriate within 'residential areas' within the use class order. A distinction is made to the proposal being within a residential building.
- Question over where chemicals, flammable or otherwise, and gas cylinders are to be stored.

**Response:** An assessment of the proposed development alongside residential uses has been undertaken within paragraphs 10.14 – 10.26. In brief, subject to suitable conditions relating to noise mitigation and hours of use, officers consider the proposed development suitable alongside residential uses.

A response in regards to the keeping of chemicals has been provided within paragraph 10.18. Impacts on property values is not a material planning consideration.

- Prior to 2011 Titanic Mill's existing car park included a shared area for second cars, visitors and tradesmen. This was removed, with vehicles parking in the previous shared area being fined and caused these vehicles to be parked on Low Westwood Lane. This has led Low Westwood Lane to become unsafe and visually unattractive.
- Circa 40 apartments are used by the Spa for guests, with more day guests and visitors to the bistro. It is claimed that the parking has been taken to accommodate this commercial use, to the detriment of residents.
- The existing car parking plan is marked up incorrectly.
- The 'existing access drive' is infrequently used, only a handful of times a week. Vehicles parked on the street would limit its sightlines and make it unsafe.
- The main car park typically has numerous empty spaces. Why is this not being utilised and a new car park being created over the garden-space for residents?
- Query over the cumulative impact on the local Highway of the existing Mill use, proposed uses and future development of the adjacent mill.
- Questions over whether the site's existing servicing and loading / unloading could accommodate the additional usage.

**Response:** Arrangements between the site manager and residents, in this case regarding car parking, are a private matter beyond the scope of this application. The proposed car parking area is similar to the overspill car parking approved as part of the original permission, but never implemented. The 'landscaped' area is to be retained.

Any impact of the proposed development's highway's impact is undertaken in paragraphs 10.27 – 10.29. It was concluded that, subject to suitable conditions, the highways arrangement is appropriate. This included providing a footpath along the frontage, to ensure the 'existing access drive' is suitable for use. The nature of the proposed developments would not necessitate large or regular deliveries and/or servicing.

- The proposal does not include access to the leaseholder garden, which is being reduced in size and which has already had its access from the building restricted. Residents have legal access rights to the garden and the unimplemented over-spill car park. The way the car park is run has been taken to court. A deed of variation will be required between property owners and the landlord.

**Response:** On review of the plans approved via application 2001/92048 the garden area shown corresponds to the 'landscaped' area being retained on the submitted plans. Access to and from this area forms a private legal matter between residents and the site manager.

- Concerns over security – plans appear to show students / staff of the proposed uses accessing the application areas through the residential lifts. The plans show doors leading directly from the proposed uses into residential circulation spaces, which could be used by staff / students to cut through the building to the spa bistro / facilities. Concerns that hazardous waste will be kept on public hallways.
- Lifts 2 and 3 would be used by the proposed development, reducing the amenity of residents. The coming and going of visitors will impact on the living standards of local residents.

**Response:** The proposed development are to have their own access and internal circulation space, via 'lift 4' and the corresponding stairwell. The doors connecting the proposed B1/D1 uses to the residential areas are to be fire-doors, without day to day use, with limited interaction between the two areas.

- The building has had historic problems with heating and water. The proposal would increase demand on these utilities and is a cause for concern.
- The building has issues with ventilation and extraction, with no currently working system. The proposed development would exacerbate this concern and potentially delay it being corrected. No details on ventilation have been provided. This causes issues of damp and air circulation. Users of the new facilities will not pay service charge, but use the building, increasing the pressure on residents.

**Response:** Issues regarding water and heating utilities would not form a material planning consideration.

Turning to ventilation/extraction, in the interests of preserving the significance of the listed building, it is considered reasonable and necessary to condition details of the system to serve this section of the building. As a consequence of this it would be necessary to consider whether the scheme retained a good standard of amenity for existing residents, in terms of noise mitigation. This is in accordance with Policies LP35 and LP52 of the Local Plan

- The staircase to be used by the development is the largest and only way to get furniture to upper levels. Without access to it, residents will require an alternative.

**Response:** This is noted, however does not form a material planning consideration. The applicant states that residents, at this time, have no access to the southern staircase. It is however, a private matter between residents and the applicant.

- Insufficient detail has been provided on the laboratory use, including what equipment would be within and therefore safety cannot be assessed. Fears that it could pose a hazard to health (fume cupboards, x-ray equipment, weapons, toxic substances, chemicals). Also, it is anticipated to increase fire risk. What's to stop the laboratory introducing these in the future, if not currently proposed?

- The proposal would move the building towards commercial/industrial usage. There are other buildings/sites in the area that would be more appropriate, such as Globe Mill.

**Response:** The applicant has provided clarification on the proposed use, detailed within paragraph 3.4. The application has been assessed on the basis of the details provided. Concerns regarding chemicals, health and safety are addressed within paragraph 10.18. As the principle of the proposed uses are not subject to a sequential test, the LPA is unable to consider alternative sites.

- The proposal would remove residential units, which contribute to the council's housing supply. These units are ideal for elderly, who are in most need.

**Response:** These comments are noted, however the units in question have not been implemented in over ten years and with the Local Plan having no policies against the change of use of residential units to other uses. Therefore officers have no objection to the proposed non-residential use.

- A forensic lab would attract crime to the area and upon local residents.

**Response:** Officers do not consider the scale or nature of the proposal to have a likely probability to materially increase crime risks within the area. Furthermore, the car park is to be secured by a gate, with secure access to the building to be retained.

- Spa guests already caused disruption, such as on balconies on an evening. This would be exacerbated by the proposed student visitors. Students will have poor behaviour and would cause noise, litter and general inconvenience for residents. There will be no effective management of these people to control their noise. More non-residences will harm the privacy of occupiers.
- The proposed uses, operating through the day, would disproportionately impact upon those who work from home, are retired or who work night shifts.
- Disruption and noise caused during construction will harm the amenity of residents.
- The building has an 11pm curfew which may not be abided to by students.
- The coming and going of students and workers will add to the already disruptive environment and is unlikely to be consistent with the 'peaceful resident, communal living'.

**Response:** The proposed layout indicated the B1 and D1 uses being separate and self-contained from the residential areas, only being connected by fire-doors. A separate access and stair-well is to be provided and therefore there is no need for access to residential areas.

For the reasons detailed within paragraphs 10.14 – 10.26 officers consider that, subject to conditions, the proposal would not cause undue harm to the amenity of neighbouring residents. It would go beyond the remit of planning and powers of planning conditions to impose a curfew and/or limit access, with these being matters for the site management company. Regarding student noise and their accommodation, any undue noise created beyond that typically associated with residential accommodation would be a matter for the Environmental Health department (or police, in extreme circumstances).

- The development would harm the original character of the mill.
- The car parking will harm the setting of the listed building and the nearby setting of the Grade 2\* Lower Westwood Mill. Residents sought to live in a rural listed building, and the introduction of a car park would harm their living standards.

**Response:** Planning officers, alongside Conservation and Design colleagues, do not consider the proposed development detrimental to the heritage value of either the host building as a Grade 2 Listed Building or the wider Conservation Area. The Grade 2\* Lower Westwood Mill is a notable distance separate and would likewise not be impacted upon by the surfacing of land or the ensuing parking of vehicles on that land

In terms of outlook upon a car park, within planning there is no right to a view. As the flats are first floor upwards, officers do not consider the car parking arrangement to be harmful to the amenity of occupiers.

- The car park would be within a flood zone.

**Response:** Flood risk and drainage has been considered within paragraphs 10.34 – 10.37. In summary, the car park being within a flood zone raises no concerns.

- Past permissions have not complied with their conditions; therefore no new permissions should be granted as it would be supporting the developer breaching conditions.
- While noting the comments from the applicant regarding the use of the laboratory, given previous concerns about the development and the Council's inability to enforce these, 'we are not confident what will happen if this proposal is passed. It is our belief that once approved practices will drift'.

**Response:** This does not form a material planning consideration and cannot be used to prejudice future development proposals.

- The proposed development is to increase profit and income for the owners, without thought to the 'niceties contained in the original planning permission.' The building has already become too commercialised, harming the amenity of residents and local highway safety.

**Response:** This is not a material planning consideration.

- Query whether any risk assessment has been undertaken as part of the laboratory proposal.

**Response:** Within the planning system a risk assessment would not be required for the proposed development. This would not prevent the need under any separate legislation that may exist.

- Query over the length of the public representation period, which is considered short. Further, questions whether all the owners know. Only circa 20 owners live in the building, with other units being rented.
- Object to the development not arranging a pre-application meeting or advertisement of the proposal.

**Response:** The application was subject to public representation via site notices, neighbour letters and press notice. These representation periods, which started at separate times, ran from when the neighbour letters were posted, on the 14<sup>th</sup> of August, until the 14<sup>th</sup> of September when the site notice expired. There is no requirement for the applicant to arrange any pre-application/publicity for the development

All neighbour notification letters are addressed to the 'owner/occupiers'. It is beyond the remit of planning to identify or address notification letters to specific 'owners' of land or buildings.

## **11.0 CONCLUSION**

- 11.1 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.
- 11.2 The area of the building in question is currently vacant. While it has extant permission for residential units, these have not been implemented within a significant period with limited prospect of coming forward. The proposed uses, neither of which are main town centre uses, would support the economy and bring unused floor space into use. Therefore the principle of development is found to be acceptable.
- 11.3 Regarding the local impact, officers are satisfied that there would be no harm to the historic environment. The proposed highway arrangements are found to be acceptable, along with other impacts including ecology, flood risk and climate change, subject to conditions. Regarding residential amenity, the proposed hours of use, alongside noise mitigation measures to be secured by condition are, on balance, considered to be acceptable.
- 11.4 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

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

1. Time limit
2. In accordance with plans
3. Noise mitigation strategy
4. Electric vehicle charging points
5. Ecological design strategy
6. Details of ventilation/extraction scheme to serve the proposed uses in this section of the building
7. Car parking surfaced and provided in accordance with details to be submitted for approval
8. Limit D1 use to training facility
9. Restrict bed space accommodation on the 4<sup>th</sup> floor to being tied to, and ancillary to, the D1 training use.
10. Gate set back minimum of 6m
11. Footway to be provided
12. Submission of details prior to the installation of external lighting
13. Weekday hours of use
14. Temporary weekend hours of use
15. Limit B1 floor-space to that shown

Note: Flood Risk details

Note: Informative on works within the Highway

### **Background Papers**

#### Application files

Accessible at;

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019/92566>

Allied Listed Building Consent accessible at;

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019/92567>

#### Certificate of Ownership

Certificate A signed.