
Report of the Head of Planning and Development**STRATEGIC PLANNING COMMITTEE****Date: 19-Dec-2019**

Subject: Planning Application 2019/92957 Demolition of existing children's play gym/out of school club and erection of children's play gym (D2), children's private day nursery (D1) and cafe (A3) and formation of 68 car parking spaces and associated landscaping Land at, Knowle Lane, Meltham, Holmfirth, HD9 4HL

APPLICANT

D Bamforth, Towndoor
Ltd

DATE VALID

10-Sep-2019

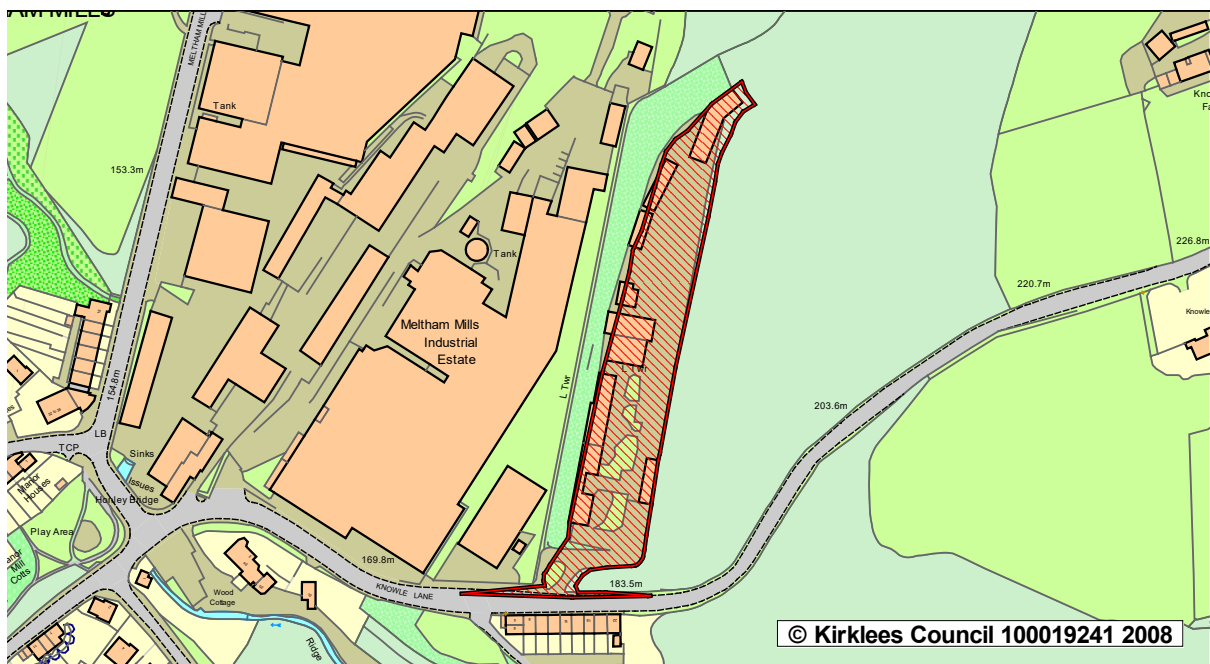
TARGET DATE

10-Dec-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: HOLME VALLEY NORTH

Y

Ward Members consulted
(referred to in report)

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report.

1.0 INTRODUCTION:

- 1.1 This application is brought before Strategic Committee for determination under the terms of the Delegation Agreement on the grounds that the site area is in excess of 1000sqm.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site comprises a large area of artificially levelled ground with an access to the highway at its southern end. It measures some 250m from north to south and is on average approximately 30m wide. To the west is the Meltham Mills industrial estate; to the east is woodland. A single-storey building has been erected in the southern part of the site in lightweight materials. The existing building is used as a children's play-gym. The building is positioned near the western boundary of the site, facing east with some landscaping in front. There are areas for car parking and manoeuvring in the western and southern parts of the site.

3.0 PROPOSAL:

- 3.1 The proposal is for the demolition of the existing buildings and the erection of new buildings comprising: a children's play gym and after-school club (use class D2) with a gross internal floorspace of 622sqm on the northern part of the site; a nursery (use class D1) with a gross internal floorspace of 655sqm in the southern part of the site; and a café (use class A3) with a gross internal floorspace of 95sqm at the southern end near the entrance. The proposal also involves the formation of 68 new car parking spaces and associated landscaping.
- 3.2 The two larger buildings would be located towards the eastern boundary of the site with car parking spaces arranged in a single row near the western boundary, which is the opposite of the existing layout. It is proposed that the nursery would operate weekdays only, 0730 until 1800. The D2 uses would operate from 0930 until 1800 hours weekdays with slightly reduced hours Saturdays and Sundays. The café would open 0900 until 1600 hours Mon-Sat, 1000 to 1600 hours Sunday.

- 3.3 The nursery and play-gym would be two-storey buildings, the café single-storey. It is proposed that the buildings would be faced in profiled metal cladding would have very gently pitching roofs made of metal sheeting.
- 3.4 The plans indicate that the northernmost part of the site would be used as an external play area for the play-gym and after-school club and that there would be some new planting near the northern boundary of the site.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2010/91912 – Change of use of site for office, to private day nursery, store and play gym – Approved and implemented

2009/90604 – Use of children's play gym to include children's holiday club – Approved and implemented.

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

- 5.1 09-Oct-2019: Phase 1 Desk Study Report and Preliminary Ecological Appraisal submitted.

31-Oct-2019: Officers advised applicant to provide further justification for the café including an Impact Assessment.

14-Nov-2019: Town Centre Sequential Test and Leisure Impact Assessment submitted.

19-Nov-2019: Further details of play area and vehicle tracking plan submitted.

05-Dec-2019: Plans submitted showing amended provision for cyclists.

6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

Kirklees Local Plan (2019):

- 6.2 The site is in a Priority Employment Area within the Local Plan.

LP1: Presumption in favour of sustainable development

LP8: Safeguarding employment land and premises

LP24: Design

LP27: Flood risk

LP28: Drainage

LP30: Biodiversity and geodiversity

LP32: Landscape

LP33: Trees

LP38: Minerals safeguarding

LP48: Community facilities and services

LP53: Contaminated and unstable land.

Supplementary Planning Guidance / Documents:

- 6.3 None are considered to be relevant here.

National Planning Guidance:

- 6.4 The following parts of the National Planning Policy Framework are considered to be relevant:

- Chapter 6 – Building a strong competitive economy
- Chapter 7 – Ensuring the vitality of town centres
- 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 challenges of climate change, flood risk and coastal change
- Chapter 15 – Conserving and enhancing the natural environment.

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The publicity period expired on 25-Oct-2019.

Meltham Town Council – The Council support the application “subject to more appropriate natural materials in place of the metal cladding proposed”.

Ward Members were briefed about the application but did not choose to comment on it.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

The Coal Authority – No objections (standing advice applies)
The Environment Agency – No response.

8.2 Non-statutory:

KC Highways Development Management – No objection subject to condition
KC Environmental Health – No objection subject to conditions
KC Arboricultural Officer – No objection
KC Planning Minerals & Waste – No objection
KC Planning Local Plans – Impact Assessment will be required
KC Public Rights of Way – Object

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Landscape issues
- Housing issues
- Highway issues
- Drainage issues
- Planning obligations
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The site lies within a Priority Employment Area and therefore the proposal will be considered having regard to Policy LP8 which seeks to retain such sites in employment-generating uses where possible. The site is also approximately 1300m (by road) from the nearest point in Meltham District Centre. Policy LP48 states that community facilities (including nurseries) should be provided in accessible locations, normally town centres. Furthermore the proposed café (A3) and play-gym (D2) both fall within the definition of “Main Town Centre Uses” and are subject to a sequential test under NPPF Chapter 7 and LP13.
- 10.2 The site also lies within a Local Wildlife Site and forms part of the Kirklees Wildlife Habitat Network. It will therefore be subject to the considerations in LP30. As it is adjacent to an extensive stand of mature trees covered by an area Tree Preservation Order, any impact on these trees will be assessed having regard to LP33.
- 10.3 In addition, the design, landscape, drainage and environmental aspects will be considered having regard to the policies listed above, specifically LP24, 27, 28, 32 and 53, and the relevant chapters within the National Planning Policy Framework, in particular 6-9, 11, 12, 14 and 15.

Potential loss of employment land and premises

- 10.4 The uses proposed for the site are not classed as “employment-generating uses” within the meaning of Policy LP8, paragraph 7.21 of the policy justification. It is however noted that the proposed development would create long-term jobs and would result in a net increase in employment within the application site. The applicant has estimated that the development would provide 27 full-time and 24 part-time jobs, and has provided a detailed breakdown as follows: (i) 20 full-time, 11 part-time for the nursery; (ii) 6 full-time and 10 part-time for the play-gym and after-school club; 1 full-time and 3 part-time. Furthermore it would not result in the loss of any premises which are in, or have recently been in, B1, B2 or B8 uses. The site is self-contained and the development would not interfere with the established employment uses on the main part of the Meltham Mills industrial estate or affect their future viability. The development is therefore considered to be compatible with the aims of Policy LP8 and NPPF Chapter 6.

Appropriateness of uses in out-of-centre location

- 10.5 Planning policy guides that of the uses proposed it is only the A3 (cafe) and D2 (play-gym and after-school club) uses that need to be subject to a sequential test. The Glossary to the NPPF states that a site will not normally be considered edge-of-centre if more than 300m from a town centre boundary. This site will therefore be treated as “out of centre” for planning purposes. The applicant’s sequential test has treated the Holme Valley centres of Meltham, Honley and Holmfirth as being the relevant catchment area. The applicant’s view is that an alternative site would need to be in the region of 0.7ha to accommodate the development and associated parking provision. A walkover survey and desk top study in Honley found only two unoccupied premises, both small shop units that fall far short of the required floorspace, and another two that are available for purchase but tenanted and therefore unavailable.
- 10.6 The same methods of search were applied to edge-of-centre sites within Meltham and Holmfirth and found a total of eleven premises available which, again, were deemed far too small for the proposed development. The survey concludes that there are no edge of centre sites in Honley, Meltham or Holmfirth that are available or suitable for the proposed uses. It further concludes whilst there are employment premises in the area that might be functionally suitable, these are also in out-of-centre locations and therefore not sequentially preferable to the current site.
- 10.7 Officers agree that the sequential test information supplied with the application documents shows on the balance of probabilities that there are no suitable, available or viable sites within the catchment area that would be sequential preferable to the site now under consideration for accommodating the proposed D2 and A3 uses together.
- 10.8 Planning Practice Guidance on Town Centres and Retail, revised 22/07/2019, states that “It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.” However, the Rushden Lakes decision emphasizes that there is no explicit requirement in the NPPF to consider disaggregation (i.e. breaking a proposal down into smaller components some of which can be located on alternative sites). Accordingly, the applicant has not been asked to disaggregate the scheme, but was asked to provide an Impact Assessment as required by Policy LP13.
- 10.9 The Impact Assessment concludes that the proposed play-gym would be competing mainly with other facilities which are also in out-of-centre locations. It also takes the view that the café would derive a high proportion of its customers from among the following groups: (i) the approximately 500 employees at the Meltham Mills Industrial Estate (who already have the option of going to the café on Bent Ley Road or the convenience store on the corner of Mill Bank Road, both out-of-centre); (ii) people living nearby in the Thick Hollins / Acre Lane area of Meltham; (iii) walkers and cyclists using the nearby Public Rights of Way. The consequence would be that it would not be competing primarily with existing cafes in the centre of Meltham and would have little impact on their trade. The Impact Assessment also envisages that the development would provide an opportunity for multi-purpose trips, with many users of the play-gym and nursery choosing to take refreshment at the café.

- 10.10 Officers' view is that the Impact Assessment is adequate in its scope and content has been carried out in a proportionate fashion. It is considered that on the basis of the submitted Impact Assessment, the development would not give rise to any significant adverse impact on public or private investment in local centres or negatively affect their viability, vitality or consumer choice.
- 10.11 In conclusion, the proposal would accord with the aims of LP13 and NPPF Chapters 6 and 7. It would contribute to the aims of sustainable economic development, subject to a full assessment of amenity, transport and environmental issues, and any other material considerations, to be examined in detail below.

Urban Design issues

- 10.12 The proposed buildings would be of modern appearance. The visual context is formed mainly by the Meltham Mills Industrial Estate, the woodland to the east, and the single row of stone-built terraced houses on the other side of Knowle Lane. The industrial estate does not display an overall coherence of design, but consists principally of large modern single-storey buildings with low-pitching roofs, with extensive use of brick and profiled metal or fibre cement sheeting in addition to stone.
- 10.13 The concerns about the use of metal cladding, expressed by Meltham Town Council, are noted. The café building would be the most prominent of the new buildings when viewed from the highway, being roughly 30m from the site boundary. The visual prominence of this building would, however, still be limited from the point of view of passers-by because of the presence of neighbouring buildings, the local topography and trees. The design incorporates substantial glazed areas which would give it a lighter and less industrial appearance than some of the established buildings nearby, and would be in keeping with its intended use. The proposed nursery and play-gym buildings would also make extensive use of glazing at ground floor, especially in the western elevations.
- 10.14 It is considered that the layout, scale, design and palette of materials for the new buildings would respect the appearance of its surroundings, subject to an appropriate finish colour being chosen, which can be controlled by condition. Subject to this it would accord with the aims of Policy LP24(a).

Residential Amenity

- 10.15 The site is not within a residential area. There is a row of residential properties opposite the site entrance but it is considered highly unlikely that in this location they would be affected by noise from the play-gym, after-school club or nursery. If permission were to be granted, other D2 uses could be carried on which might have longer hours and generate more noise (including from vehicle movements). As a precaution it is recommended that the hours of operation be limited to those specified in the supporting statement (see paragraph 3.2 above) except that to allow additional flexibility to the developer or future users, the café can be permitted to open to 6pm weekdays and Saturdays. Subject to this it would accord with the aims of Policy LP52 and NPPF Chapter 15.

Landscape issues

- 10.16 The site is surrounded to the east, west and north by a substantial Area Tree Preservation Order (reference 06/98/w1). Some unauthorised felling took place in 2017; replacement planting subsequently took place. The Arboricultural Officer's advice is that whilst the erection of the buildings would be unlikely to cause any short-term harm, there may be future conflict between the buildings and the viability of the trees because of encroachment and leaf fall. On balance this does not amount to a reason to refuse the proposal and it is considered that the development proposal accords with the aims of LP33. But the developer should be reminded that any pruning or felling that may be deemed necessary in the future would require a separate application for consent.
- 10.17 It is considered that the buildings proposed, being of modest scale and seen against a backdrop of rising land to the east and a large industrial estate to the west, would not adversely affect the wider landscape, thereby according with LP32.

Highway issues

- 10.18 The site has an access which is independent of the Meltham Mills Industrial Estate, and which benefits from visibility splays that meet the standard requirement of 2.4 x 43m in each direction. The intensification of this access would therefore not be a cause for concern. The Transport Statement provides robust justification for the level of off-street parking provision (58 spaces). There would also be provision for motorcycles and pedal cycles. The plans demonstrate that there would be internal turning space for a 11.85m refuse vehicle. It is considered that the development would avoid giving rise to highway safety problems and that it would comply with the aims of LP21 and 22. This should be subject to a condition that the areas to be used by vehicles are surfaced and marked out, and that the cycle storage facilities are also provided (in accordance with the aims of LP21(g)) before the development is brought into use.

Potential ground contamination and instability

- 10.19 The applicant has sought to address potential contamination on site by providing Phase I and Phase II contaminated land reports. These are deemed to be sufficient at this stage, but a Remediation Strategy and subsequent validation report will be required which can be the subject of a pre-commencement condition in accordance with the aims of Policy LP53 and NPPF Chapter 15.
- 10.20 A very small part of the far northern extent of the application site falls within a Coal Referral Area according to information held by the Council. But no part of the area of the site that is proposed to be developed falls within it and the Coal Authority have expressed no concerns. Coal mining legacy is therefore not considered to be a material issue in the determination of this proposal.

Drainage issues

- 10.21 The site is not on land that is known to be at risk of flooding. It is proposed that a sustainable drainage system would be used for surface water disposal and that foul sewage would be disposed of by the mains. Details of the sustainable drainage system can be submitted. It is recommended that this should be the subject of a pre-commencement condition so as to ensure that the most sustainable form of drainage possible is incorporated into the scheme early in the development process. Subject to this it would support the aims of LP28 and NPPF Chapter 14.

Representations

- 10.22 Concerns relating to design and appearance have been examined earlier in the report but are highlighted here with officer responses.
- 10.23 Meltham Town Council's comments were: "Support the application subject to more appropriate natural materials in place of the metal cladding proposed". In response, planning officers are of the view that the use of coloured metal cladding would be appropriate for the site and the development. This is subject to a colour scheme being agreed, which can be the subject of a condition.
- 10.24 No representations have been made by members of the public, Ward Councillors, or other third parties.

Planning obligations

- 10.25 It is considered that the application does not give rise to the need for any planning obligations to be entered into.

Other Matters

- 10.26 *Mineral extraction.* The site lies within a Mineral Safeguarded Area. The workable area would however be very limited once the relevant stand-off distances were complied with, and it is anticipated that the yield would be so low as to make mineral extraction uneconomical. Policy LP38 is therefore judged to have been complied with.
- 10.27 *Ecology.* The site lies within a Local Wildlife Site, is adjacent to ancient woodland, and forms part of the Kirklees Wildlife Habitat Network, as well as being in the bat alert layer. Officers' assessment is that the development would not give rise to any direct negative impacts upon biodiversity or habitats. In order to ensure that no indirect adverse impacts occur and to secure a measure of enhancement in accordance with the aims of LP30 and NPPF Chapter 15, it is recommended that conditions be applied requiring a Landscape & Ecological Management Plan and a lighting design strategy for the whole site to be submitted and approved.
- 10.28 *Crime and safety* The Police Architectural Liaison Officer has made some recommendations, including wall construction, window and door standards, overlooking of the vehicle parking area, lighting, CCTV, and the position of the cycle and motorcycle parking areas which it is recommended are moved further into the site within view of an active frontage of the building, and should have metal support stands or ground anchors. Planning Officers' view is that the advice on building security can be conveyed to the developer by a note rather

than a condition, in line with the approach that has been taken with many other recent applications. The use of CCTV may have some benefits in discouraging potential thieves but it is considered on balance that this can be left to the discretion of the developer. It is considered that the location of the parking, pedal cycle and motorcycle spaces are suitable, even though not all are directly overlooked. The lack of alternative escape routes and the overlooking of the driveways and common areas that would naturally occur, would both act as a disincentive to potential thieves, but in the interests of limiting the potential for pedal cycle and motorcycle theft it is recommended that the advice on secure parking (support stands or ground anchors) should be added as a condition. In conclusion, it is considered that subject to this condition the development would support the aims of Chapter 8 of the NPPF, LP22(g) and LP 24(f).

- 10.29 *Public Right of Way*: A bridleway, MEL/34/10, runs parallel to the western boundary of the site. It crosses a tarmacked area which appears to be have been laid out as an informal turning circle near the entrance, but is outside the red line boundary for the application. The Public Rights of Way Officer has objected to the application on the grounds that this stretch of the bridleway (approximately 20m) has been laid out with tarmac without the appropriate consent having been obtained from the Council.
- 10.30 The bridleway does not share a route with the main vehicular access into the site. The development as shown on the plans would be able to function safely without vehicles having to cross the bridleway or come into contact with bridleway users since there would be turning provision for large vehicles within the site. It is therefore considered that the intensification of the use of the vehicular access resulting from the development would not prejudice the safety of users of the Public Right of Way, and that it would accord with the aims of LP21. It is however recommended that a footnote is added to the decision notice about the unauthorised modifications, which may be subject to enforcement proceedings.
- 10.31 *Climate Change*: 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.
- 10.32 The Leisure Impact Assessment submitted as an addendum to the application notes that the play-gym is likely to attract users mainly from the Meltham area, and since it is competing with existing facilities in or near Honley, Netherton and Milnsbridge it is expected that many potential users will have a shorter journey to reach the new play-gym than they would have using existing facilities in the wider area. Users of the nursery are also likely to live or work locally. It is therefore anticipated that, although it would give rise to car-borne journeys, these would usually be short. The site is only moderately accessible by public transport, but as previously stated it is anticipated that most café users would be cyclists, walkers, those living or working in the local area, or people making linked trips.

- 10.33 The plans so far submitted do not provide details of electric vehicle charging points. It is recommended that a condition be attached requiring a scheme for the provision of charge points for the parking spaces so as to ensure they are adequate in number and distribution and to accord with the aims of Policy 24(d & v) of the Kirklees Local Plan, Government guidance on air quality mitigation outlined within the Planning Practice Guidance and Chapter 14 of the National Planning Policy Framework. It is generally recommended that 1 per 10 unallocated spaces is provided.
- 10.34 It is also noted that the development makes provision for cyclists. In conclusion, the impact of the development as conditioned would be compatible with reducing the output of greenhouse gases as set out in the aims of NPPF Chapter 12 and 14.
- 10.35 The applicant has agreed an extension of time for determination to 23rd December, from the original target date of 10th December.

11.0 CONCLUSION

- 11.1 It is considered that the development, subject to conditions, would be an appropriate use of the site and would benefit the local economy. It would represent good urban design, provide safe access and adequate parking facilities for a range of means of transport, would protect the local environment and would conserve and enhance biodiversity. It is therefore considered that it would support the principles of sustainable development.

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

- 1. Development to be in full accordance with approved plans**
- 2. Submission of remediation strategy**
- 3. Implementation of remediation strategy**
- 4. Submission of validation report**
- 5. Access and parking conditions (including support stands or ground anchors for pedal cycles / motor cycles)**
- 6. Electric vehicle charging points**
- 7. Landscape and ecological management plan**
- 8. Lighting design plan**
- 9. Drainage system plan**
- 10. Details of cladding and sheeting colours**
- 11. Condition on hours of use.**

Background Papers:

Application and history files.

Website link to be inserted here

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