Kirklees COUNCIL

Originator: Nick Hirst

Tel: 01484 221000

**Report of the Head of Strategic Investment**

**STRATEGIC PLANNING COMMITTEE**

**Date: 30-Nov-2017**

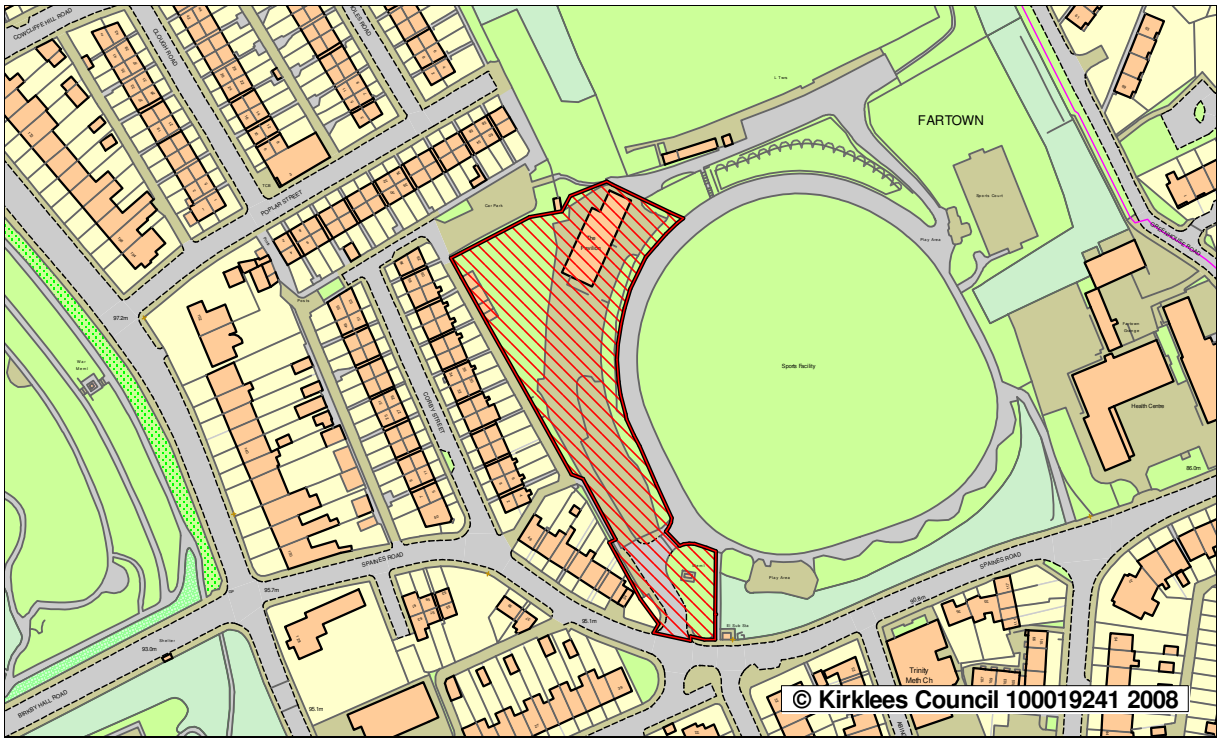
**Subject: Planning Application 2017/92958 Alteration and extension to community and recreation centre and mosque with ancillary residential accommodation, car parking, landscaping and revised boundary treatment including demolition of existing outbuilding Baitul Tauhid Mosque, Spaines Road, Fartown, Huddersfield, HD2 2SD**

**APPLICANT**
Munir Ahmed

| DATE VALID | TARGET DATE | EXTENSION EXPIRY DATE |
|---|---|---|
| 31-Aug-2017 | 30-Nov-2017 | |

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:** **Greenhead Ward**

Yes

Ward Members consulted

**RECOMMENDATION**

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

## 1.0 INTRODUCTION

1.1 This is a full planning application seeking the alteration and extension of a community/recreation centre and mosque, to include ancillary residential accommodation, and the formation of car parking, landscaping and boundary treatment. The proposal also includes the demolition of an existing outbuilding.

1.2 This application is brought to Strategic Committee because the proposal seeks non-residential development within a site area which exceeds 0.5ha.

## 2.0 SITE AND SURROUNDINGS

2.1 Located within Fartown, the application site covers an area of 0.62ha. The site includes an original cricket pavilion, now used as a community/recreation centre and mosque, a dilapidated outbuilding and an associated unmarked parking area. The pavilion pre-dates 1893. It has been extended and modified throughout the years and is not a listed heritage asset.

2.2 To the north and east of the site are two playing pitches, each currently configured for rugby. Other facilities include a playground, basketball court and running track. The wider surrounding area is residential. To the immediate west of the site is Corby Street, which consists of back-to-back terrace rows. An access route separates the application site's boundary with the boundaries of the dwelling's facing the site.

2.3 The application site and adjacent playing pitches are allocated Urban Green Space.

## 3.0 PROPOSAL

3.1 The proposal seeks significant alterations to the building, including various extensions and aesthetic changes. The application is seeking to form a purpose built space for the community, as opposed to the current

arrangement in which they use to unsuitable layout of the pavilion. The building's floor space is to increase from 630sqm to 1,485sqm.

3.2 The proposed architectural form is characteristic of a traditional mosque. Design features include flat roofs with a dome section, stone minaret, and arches with mesh curtains. The building would be two storeys in height, with a typical maximum height of 7.8m with the dome being 10.5m at its peak. Facing materials would be a mixture of artificial stone and off-white render.

3.3 Using the maximum number of prayer mats that the prayer halls can accommodate, the site has an anticipated maximum occupancy of 279. Internal features include prayer halls, meeting rooms, crèche and ancillary services such as an office, kitchen and library. Additionally, a three bedroom missionary's apartment is proposed, to be occupied by the cleric and their family.

3.4 No opening hours have been specified although it is intended the building would be open during the day and evenings. No loudspeaker or call to prayer is proposed.

3.5 The existing outbuilding is to be demolished. The vegetation around the boundary is to be retained, and enhancing with additional planting in places. The car park is to be formally marked out with fifty-five standard car parking spaces, two disabled spaces and three bicycle hoops. The site's current boundary includes sections of brick walling, palisade fencing and weld-mesh fencing. The proposal looks to retain aspects of the existing boundary, while replacing large sections of the brick walling with 2.4m high green weld-mesh fencing.

## 4.0 RELEVANT PLANNING HISTORY

4.1 Application site

99/91781: Erection of extension to existing function room – Refused (Appeal dismissed)

2008/92369: Change of use from nightclub to community and recreation centre and mosque (use class D1) and erection of security fencing – Conditional Full Permission (Implemented)

4.2 Surrounding area

94/91646: Erection of prefabricated building for changing rooms and public toilets and rehousing of existing generator room – Conditional Full Permission (unimplemented, expired)

2001/93715: Erection of stand with changing and fitness suite – Conditional Full Permission (unimplemented, expired)

## 5.0 HISTORY OF NEGOTIATIONS

5.1 Discussions have taken place between the officers and the applicant in regards to technical details. These include highway arrangements, ecology and drainage. The discussions have overcome many of the concerns initially

raised by officers, and are continuing in regards to the final outstanding matters.

5.2 During the course of the application the applicant has requested that the plans be superseded several times. These were to allow for late aesthetic changes to the building.

## 6.0 PLANNING POLICY

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. At this stage of the Local Plan process the Publication Draft Local Plan is considered to carry significant weight in the determination of planning applications. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

6.2 On the UDP Proposals Map the site is allocated as Urban Green Space

6.3 The site is allocated as Urban Green Space on the PDLP Proposals Map.

6.4 Kirklees Unitary Development Plan (UDP) Saved Policies 2007

- **G6** – Land contamination
- **D3** – Urban Greenspace
- **BE1** – Quality of design
- **BE2** – Design principles
- **BE11**– Building materials
- **BE23** – Crime prevention
- **EP4** – Noise sensitive locations
- **T10** – New development and access to highways
- **T19** – Parking standards

6.5 Kirklees Publication Draft Local Plan: Submitted for examination April 2017

- **PLP1** – Presumption in favour of sustainable development
- **PLP2** – Place sharping
- **PLP3** – Location of new development
- **PLP21** – Highway safety and access
- **PLP22** – Parking
- **PLP24** – Design
- **PLP30** – Biodiversity and geodiversity
- **PLP47** – Healthy, active and safe lifestyles
- **PLP48** – Community facilities and services

- **PLP50** – Sport and physical activity
- **PLP52** – Protection and improvement of environmental quality
- **PLP53** – Contaminated and unstable land
- **PLP61** – Urban green space

6.6 National Planning Guidance

- **Paragraph 17** – Core Planning Principles
- **Chapter 7** – Requiring a good design
- **Chapter 8** – Promoting healthy communities
- **Chapter 10** – Meeting the challenge of climate change, flooding and costal change
- **Chapter 11** – Conserving and enhancing the natural environment

## 7.0 PUBLIC/LOCAL RESPONSE

7.1 The application has been advertised via site notice and through neighbour letters to addresses bordering the site. This is in line with the Councils adopted Statement of Community Involvement. The end date for publicity was the 10th of October, 2017.

7.2 No public representations were received.

*Ward Member Interest*

7.3 Given the nature of the proposal local members were contacted. Cllr Sokhal made several enquiries to officers, with Cllr Ullah included within the emails. Cllr Pattison elected to not comment as she sits on the Strategic Planning Committee.

## 8.0 CONSULTATION RESPONSES

8.1 Statutory

The Coal Authority: No objection subject to conditions regarding site investigation, remediation and validation

Sport England: No objection

8.2 Non-statutory

Crime Prevention: No objection subject to condition.

K.C. Ecology: Raise concerns with the submitted bat report and are now working proactively with the agent to address concerns. Requested several conditions.

K.C. Environmental Health: No objection subject to conditions.

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

K.C. Lead Local Flood Authority: Some concerns as requested details outstanding

## 9.0 MAIN ISSUES

- Principle of development
- Urban Design issues
- Residential Amenity
- Highway issues
- Other Matters
- Representations

## 10.0 APPRAISAL

Principle of development

*Sustainable Development*

10.1 NPPF Paragraph 14 and PLP1 outline a presumption in favour of sustainable development. Paragraph 7 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 (Para.8).

10.2 The dimensions of sustainable development will be considered throughout the proposal. Paragraph 14 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*

10.3 The site is allocated as Urban Green Space (UGS) by both the UDP and PDLP. D3 of the UDP and PLP61 of the PDLP state that development on UGS will not be permitted except in specific circumstances. These circumstances include when the development is necessary for the continuation or enhancement of an established use, subject to the development not prejudicing the site's function as green space.

10.4 Officers are satisfied that the proposal represents an enhancement of an established use, with the mosque being founded in 2008. Furthermore the development is considered reasonably necessary due to the difficulties the community is having with the pavilion, which does not provide appropriate facilities and is in a poor state of repair due to age.

10.5 The proposal is not considered detrimental to the UGS wider allocation and use as a green space. The development is to be located on the existing surfaced area, being brownfield land, and will not encroach or remove any undeveloped or open land. Furthermore the development will not prejudice the practical use of the sport pitches.

10.6 The NPPF, Chapter 8, establishes a general principle in favour of supporting development which would enhance community facilities which assists in facilitate social interaction and create health, inclusive communities. This is mirrored by policy PLP48, which states proposals which enhance the provision of community facilities will be supported.

10.7 Considering the provision of Policies D3(i) and PLP61(d) the proposal is considered to be appropriate development on UGS. Furthermore weight is given to the support provided by Chapter 8 of the NPPF and PLP48 of the PDLP. Therefore the principle of development is considered acceptable, subject to an assessment of the proposal's local impact, outlined below.

Urban Design issues

10.8 The proposal seeks a significant change in the design of the building, with both the extensions and alterations to the building being of an architectural form not in keeping with that of the original building or neighbouring structures, which is a consideration of policy BE2.

10.9 Notwithstanding this, the proposed structure is considered visually attractive. The aesthetic is typical of a purpose-built mosque, including features such as a minaret and dome which are not without precedence in the wider area. While enlarging the existing structure, the proposal is not an overdevelopment of the site, which is considered visually capable of hosting the development as proposed. The material pallet is considered to give it a light appearance, reducing its presence.

10.10 Looking to the context of the wider area, the site is adjacent numerous terrace rows of early 20th century worker dwellings. These properties have a specific design and characteristics. Nonetheless the application building is spatially detached from the terrace rows and other buildings within the area. As such the proposed building would typically be viewed in isolation from all directions: it is considered appropriate for the building to have its own character and identity, with the proposed design being noted as visually attractive. Furthermore, it is not uncommon to see such designed buildings, or other modern buildings which don't directly harmonies with their immediate context, in modern urban environments, close to residential areas so as to serve the community.

10.11 Considering the NPPF, Paragraph 69 states that '*to deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should plan positively for the provision and use of shared space, community facilities'*. In terms of design, Chapter 7 stipulates that '*planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles'* (paragraph 60) and that '*in determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area'* (paragraph 63). Weight is given to the appearance of the current building, which has been in a state of disrepair for some time.

10.12 In regards to materials, the building is to be mainly faced in white render. This is the principal material of the existing building, and its continued use is supported by officers. The proposal initially sought to use natural stone as a secondary material; however despite advice to the contrary from officers the applicant has amended the material to artificial stone. This does raise concerns from officers, however it is noted that the areas of stone are modest and subservient, being secondary to the render. Furthermore, as the site is remote, comparisons between the natural of neighbouring building and the proposed artificial stone would be limited. If minded to approve with

artificial stone, a condition can be imposed requiring samples to be submitted for inspection.

10.13 Limited details of landscaping have been given. If minded to approve officers propose a condition requiring details of landscaping be submitted and managed thereafter. In terms of boundary treatment, the existing boundary wall consists of varied elements, including brick sections and mesh walling. The brick walling sections, which are in a poor state of repair, are to be replaced by a singular 2.4m high weld-mesh fence. The majority of the fence will be adjacent to the vegetated areas, mitigating its visual impact.

10.14 The site is 110m from the Birkby Conservation Area. Giving due consideration to Section 72 of the Planning (Listed Buildings & Conservation Areas) Act 1990 and Chapter 12 of the NPPF, officers are satisfied that because of the separation distance and built development between the site and conservation area, the development would not prejudice the character or appearance of the Conservation Area as a designated heritage asset.

10.15 In summary, officers hold some concern over the proposed use of artificial stone instead of natural stone. Notwithstanding these concerns, officers consider the design to be attractive, and while it would not reflect the design of neighbouring buildings it is not considered harmful to the area's visual amenity and would help raise good design in the area. It is concluded that the development would harmonise with Policies BE1 of the UDP, PLP24 of the PDLP and Chapter 7 of the NPPF.

Residential Amenity

10.16 To the north and east is open land. The site is boarded by numerous residential dwellings to the south and west. The proposed development would increase the height of the existing structure, and also extend it closer to the neighbouring properties. The current closest relationship between the mosque and the neighbouring dwellings is 40.0m. This will decrease to 27.0m. Notwithstanding this, the proposed building is two storeys in height, with a typical height lower than that of the neighbouring dwellings. This does not include the dome and minaret, which are taller than neighbouring dwellings; however they are further removed than the main building and are small in frame.

10.17 While not strictly relevant, as the proposal does not relate to a new dwelling, Policy BE12 establishes a recommended separate distance of 21.0m between facing dwellings. As noted the proposed development's height does not exceed that of a typical dwelling, with a separate distance suitably in excess of 21.0m. The proposed Mosque building would be off-set from the neighbouring properties, and would not have a direct relationship. Consideration is also given to the site's boundary treatment, which includes walls with a typical height of 1.8m and mature trees, mitigation direct views. It is therefore concluded that the development would not result in materially harmful overbearing or overshadowing to the residents of nearby dwellings. Due to the separation distances involved between the mosque and the neighbouring dwellings, officers do not raise concerns regarding overlooking.

10.18 No hours of use are proposed, and the applicant is requesting that none are imposed. This is due to prayers taking place through the night, with congregational dawn prayers starting from 0300 and night prayers ending

2400, depending on the sun. Attendees of early and late prayers are stated to be 'a relatively small number'. Previous permission 2008/92369 was granted with the following condition;

> *8. No activities other than prayer shall take place on the premises outside the hours of 8:00am and 12:00 midnight unless otherwise agreed in writing by the Local Planning Authority.*

As noted the development will only increase the maximum number of attendees by circa 30. Therefore the impact of visitors attending the site is not anticipated to be materially greater than that already taking place on site. Officers are satisfied that the re-imposition of the above condition would suitably protect the amenity of neighbouring residents, while ensuring the operational flexibility of the applicant. The applicant has confirmed that there will be no call to prayer outside the building. This can be secured via condition.

10.19 Subject to the above-mentioned conditions officers are satisfied that the development would not cause harm to the amenity of residents in the surrounding area. Therefore the development is deemed to comply with Policies D2 and EP4 of the UDP, PLP24 and PLP52 and Paragraph 17 and Chapter 11 of the NPPF.

Highway issues

10.20 The site currently accommodates a maximum of 246 visitors, with the proposal increasing this to 279. The development is to provide 55 standard parking spaces and 2 disabled parking spaces, for a combined total of 57. This parking provision is in considered to be satisfactory, in accordance with the maximum parking standards required by policy T19. If minded to approve K.C. Highways have requested a condition be imposed requiring the parking areas are laid out in accordance with the plans and thereafter maintained; this is considered appropriate to impose.

10.21 In terms of access, the current access was improved as part of the application which permitted the mosque (2008/92369). This included the provision of a pedestrian crossing facility on Spaines Road (zebra crossing). Planning and Highways officers are satisfied that the access can accommodate the increase in visitors, subject to a condition requiring the access being kept clear of obstructions over 1.0m in height.

10.22 K.C. Highways have requested a travel plan be submitted via condition. Examples of required measures would include the upgrade of bus stops, provision of metro passes and other features designed to reduce reliance on cars. Considering that the site has sufficient provision on parking, and the proposal seeks to increase the number of visitors by 33, officers do not consider this reasonable or necessary, therefore failing to comply with the NPPFs six tests for conditions. The application has proposed three bike storage spaces, which is considered insufficient; therefore a condition is to be imposed requiring information on the provision of additional cycle facilities.

10.23 The proposal will not result in a significantly intensification of users on the site, with the proposed parking arrangements being acceptable. Furthermore the site's existing access is considered appropriate. It is therefore

considered, subject to the abovementioned conditions, that the development would not prejudice the safe and efficient operation of the Highway and the development complies with Policies T10, T19 and PLP21.

Other Matters

*Drainage issues*

10.24 The site is within Flood Zone 1, therefore having limited potential for flooding. Foul and surface drainage are proposed via the mains sewer.

10.25 Regarding surface water there is no substantive objection to the development, however K.C. Strategic Drainage have requested further technical detail relating to surface water discharge.

10.26 Officers consider this appropriate to deal with via a suitably worded condition.

*Ecological impact*

10.27 Chapter 11 of the NPPF and PLP30 of the PDLP require development to preserve and enhance the local ecological environment. The site is within the council's bat layer and, given the nature of the proposal, would likely impact on the local bat population. A bat survey has been submitted with the application, which identified at least three bat species using the site for feeding and roosting.

10.28 Without appropriate mitigation and a European Protected Species mitigation licence the proposed works will result in significant ecological impacts and criminal offence in respect of roosting bats. Further survey information on how bats are using the site is needed to inform the mitigation proposals. Without this additional survey Natural England is unlikely to grant a licence, which is a material consideration for the Planning Authority.

10.29 Discussions have taken place between officers and the applicant which resulted in an expanded bat report being submitted. Further investigation works are required, however officers are satisfied that a suitably worded condition can be imposed, requiring details of survey work and commensurate mitigation measures be provided prior to development commencing. Additional conditions deemed necessary include a Lighting Strategy, given the site's late night use, and a Landscape and Ecological Design Strategy, to detail and explore ecological enhancements within the wider site.

10.30 Subject to the above conditions officers are satisfied that the proposal would preserve the site's local ecological value, while exploring opportunities to explore site specific enhancement. As such, subject to conditions, the development is deemed to comply with PLP30 of the UDP and Chapter 11 of the NPPF.

*Crime prevention*

10.31 The application has been reviewed by the Police Architectural Liaison Officer, who does not object to the proposed development. However, in the interest of crime prevention and mitigation, as required by Policies BE1 and

BE23 of the UDP, PLP 24 of the PDLP and guidance contained within the NPPF they have requested a condition be imposed. The condition is to require the details of the proposed crime prevention measures to be used to be submitted to the Local Planning Authority. In accordance with the above mentioned policies, this is considered reasonable.

*Impact on adjacent to Sports Pitch*

10.32 The proposal is adjacent to an in use playing field and consultation undertaken with Sport England. Furthermore Policies PLP47 and PLP50 of the PDLP and Chapter 8 of the NPPF seek to protect sport facilities.

10.33 The site is currently in use as a mosque, having been so since 2008 and the physical development does not encroach towards the playing field. As such the proposal does not have a detrimental impact on either existing sport facilities or the playing field, nor generate a demand for new indoor or outdoor sport facilities. Sport England does not object to the proposal, and the development is not considered to conflict with policies PLP47, PLP50 and Chapter 8 of the NPPF.

*Coal mining legacy*

10.34 The application site is in an area where there is a high risk of historic mining activity. A Coal Mining Risk Assessment (CMRA) was submitted with the application, which indicated a potential risk for development of the site and thus made recommendations for safe development. The report was submitted for consideration by the Coal Authority, who concurs with the conclusion and recommendations of the CMRA.

10.35 The recommendations include investigatory works, prior to development commencing, and appropriate remediation if necessary. Subject to conditioning these works, if minded to approve, the Coal Authority has no objection to the proposal. These conditions are deemed to comply with the NPPF's six tests, so as to accord with Policy G6 and BE1 of the UDP, PLP53 of the PDLP and Paragraphs 120 and 121 of the NPPF. Given the importance of ensuring a safe development, and the potential impact of coal legacy, pre-commencement conditions are deemed justifiable.

*Air Quality*

10.36 In accordance with government guidance on air quality mitigation, outlined within Policies PLP21, PLP24 and PLP51 of the PDLP along with the NPPG and Chapter 10 of the NPPF, it is considered reasonable and necessary to seek air quality enhancement as part of the application. The plans indicate that three electric vehicle charging points, to serve six vehicles at a time, are proposed within the application. This provision is considered acceptable for the size of the car park. If minded to approve a condition is to be imposed, requiring the charging points to be provided and retained.

*Ancillary residential use*

10.37 The proposal includes the provision of a four bedroom flat for occupation by the Mosque's cleric. The flat is 8% of the proposed building's floor space. On-site living is not uncommon for Clerics, and an 8% floor space is considered suitably ancillary. If minded to approve officers are minded to

impose a condition, stipulating only the flat is to be occupied by the cleric and family only.

Representations

10.38 No public representations have been received.

## 11.0 CONCLUSION

11.1 The site is allocated as Urban Green Space within the Kirklees Unitary Development Plan and Kirklees Publication Draft Local Plan. However as the development seeks an enhancement to an established use, and would not prejudice the purpose of the Urban Green Space allocation, it is considered to comply with Policies D2 and PLP61.

11.2 The development would provide a public benefit through enhancing local community facilities. Furthermore it would not cause a detrimental impact upon residential amenity, visual amenity, the local highway network or other relevant material planning considerations.

11.3 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. 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. Standard (3 year time limit)
2. Standard (In accordance with the following plans)
3. Hours of use
4. Material samples
5. Crime mitigation measures
6. Condition tying apartment to cleric
7. Drainage- surface water scheme
8. Ecology (Landscape plans + eco)
9. Ecology (Lighting plan)
10. Ecology (Survey work)
11. Environmental Health (Charging points to be provided in accordance with plans)
12. Coal (Site Investigation, remediation and validation)
13. Highways (Parking layout provided)
14. Highways (Cycle facilities)
15. Highways (Access kept clear of obstructions)

**Background Papers**

Application and history files can be accessed at;

http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f92958

Certificate of Ownership: Certificate B signed. Notice served to Kirklees Council.