
Report of the Head of Strategic Investment**STRATEGIC PLANNING COMMITTEE****Date: 21-Dec-2017**

Subject: Planning Application 2017/92997 Erection of 70 (over 55) retirement apartments comprising of four blocks, provision of a community building, electricity substation and laying out of internal roads, parking areas and greenspace and associated infrastructure. Lidl, Station Road, Mirfield, WF14 8LL

APPLICANT

Darren Smith, Darren
Smith Homes

DATE VALID

22-Aug-2017

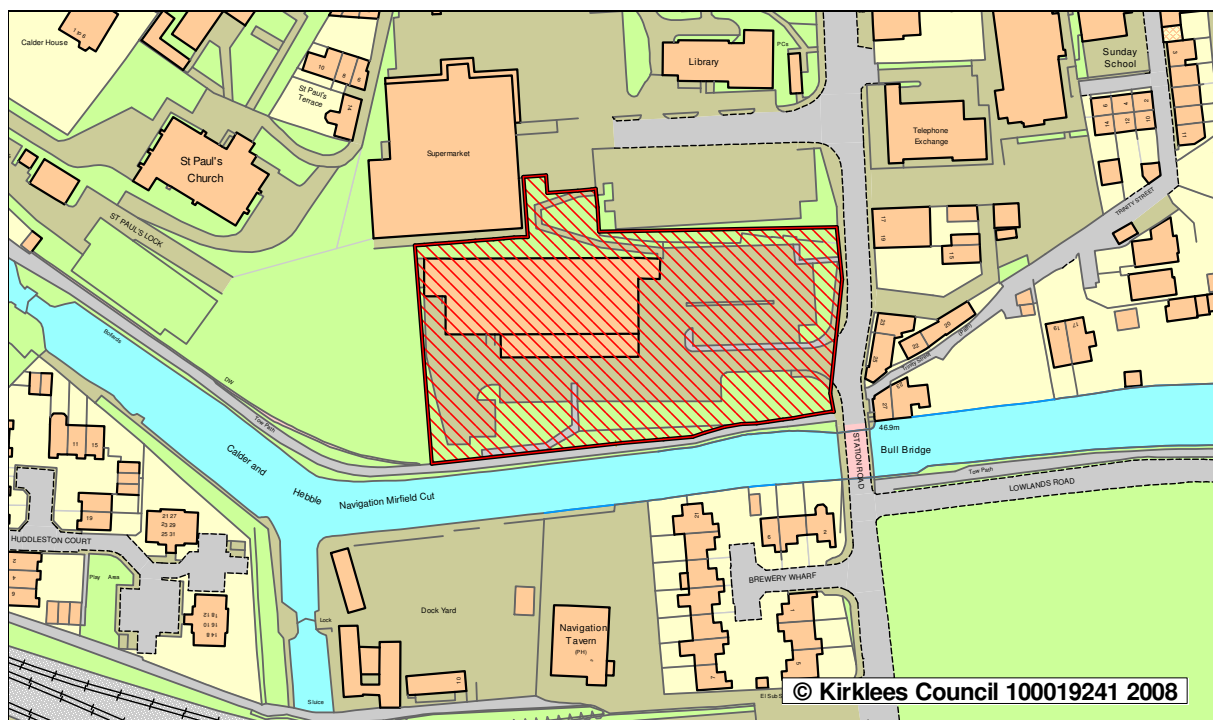
TARGET DATE

21-Nov-2017

EXTENSION EXPIRY DATE

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

LOCATION PLAN

Map not to scale – for identification purposes only

Electoral Wards Affected: Mirfield

Yes

Ward Members consulted
(referred to in report)

RECOMMENDATION

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

1.0 INTRODUCTION:

- 1.1 The application was deferred by Strategic Planning Committee on 30th November 2017 in order to negotiate viability/developer contribution issues and discuss with committee. Since then the applicant has met with officers and has confirmed that further consideration will be given to the concerns raised by members during the meeting on 30th November, and a further viability appraisal will be submitted in order to fully outline costs associated with the works proposed to the canal side which would be publicly accessible.
- 1.3 A confidential appendix will be will be circulated to committee members includes the viability assessment so they can consider the viability issues involved with this application.
- 1.4 The application involves residential development on a site in excess of 0.5ha and it involves 70 units. It is referred to Strategic Planning Committee on this basis.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site is located immediately to the south of Mirfield town centre, and approx. 4.8km to the west of Dewsbury town centre. The northern boundary of the site abuts the public car park for the town centre, whilst the southern boundary abuts the Mirfield canal which is part of the Hebble and Calder Navigational Canal network. There are existing residential properties adjacent to the eastern boundary and to the west of the site is a mixture of residential and commercial buildings including former mills.
- 2.2 The site is roughly rectangular and was until recently in retail use with a surrounding car park area. The River Calder runs some 300m to the south of the site. The main Leeds to Manchester railway line runs between the site and the river on a raised embankment. There is vehicular underpass on Station Lane that the railway runs over Station Lane. The overall site area to be developed is approximately 0.7 hectares.

- 2.3 The existing site consists of a single storey steel portal framed building. The surrounding car park has levels varying from 47m in the north-east corner down to 45.0m AOD in the south west corner of the site. The canal footpath adjacent to the site is set around 43.75m AOD and is accessed by a pedestrian ramp down from the site or down a steep banking which has been partially landscaped.
- 2.4 To the north is a community car park area separated from the development site by a brick and stone retaining wall. There is a small rectangular area that forms a pedestrian access from the site up to the communal car park. Access for vehicles to the site is taken from Station Road. The levels rise from the site entrance to the town centre in the north.

3.0 PROPOSAL:

- 3.1 The scheme seeks to redevelop the existing Lidl site with a mixed-use scheme comprising of 70 apartments contained within four bespoke designed blocks with provision for a community building.
- 3.2 Vehicular access to the development will be provided from the existing site access on to Station Road located to the north of the bridge over the Calder and Hebble navigation canal. The junction is a simple priority junction with suitable kerbed radii on both sides and footways returning into the site.
- 3.3 The proposed form of the development will comprise of four blocks, accessed from Station Road, which will utilise the key aspects afforded by the waterfront and Station Road.
- 3.4 The apartments would comprise of two bedroomed units with undercroft car parking at ground floor with varying storey heights above dependant on the position within the development site.
- 3.5 The internal courtyard of the development would provide additional surface car parking and amenity space set within a landscaped environment.
- 3.6 The site offers the potential to provide a purpose built new community facility of circa 300m² over two levels, which could house the existing library and provide accommodation for various community uses and activities. In detail, the proposal includes the following elements:-
- Block A – 3 storey building fronting the canal containing 5no flats each with 2 bedrooms. Central lift shaft. Undercroft garage parking for 5no cars. The proposed building fronts the canal.
 - Block B – 5 storey building with undercroft parking with a total of 24 parking spaces. A total of 28no apartments each with 2 bedrooms. Balconies to rooms on southern elevation. Upper floor to include a large terrace for those properties. The proposed building fronts the canal.
 - Block C – 5 storey building with undercroft parking for 7 cars. A total of 14no apartments each with 2 bedrooms. A community facility area to the rear of the building. Hydrotherapy pool and changing rooms at ground floor level for use by residents.
 - Block D – 3 and 4 storey building with undercroft parking for 24 cars. A total of 22no apartments each with 2 bedrooms.
 - Landscaping of proposed garden area.

- Improvements to the canal towpath.
- 3.7 The enhancement of the canalside providing planting and seating along with direct pedestrian connections is also proposed.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 2017/93757 – Prior notification for demolition of existing building – currently under consideration.

2011/09636 – Extensions and alterations to entrance and associated external works – approved (Lidl)

2011/91426 – Erection of 2no. internally illuminated signs and one 48 sheet advertising hoarding – approved (Lidl)

2009/91022 – Erection of extension to sales area and new entrance lobby & relocation of loading – approved (Lidl)

2009/91794 – Advertising consent for 2no illuminated signs – approve (Lidl)

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 The scheme has been through an extensive pre-application exercise. The planning application submitted differed from the pre-application details in a number of ways. Officers have therefore, engaged with the applicant to ensure that alterations have been requested particularly to the design and appearance of the scheme in order to assimilate it effectively into the local environment and to ensure the scheme is in keeping with local vernacular.

6.0 PLANNING POLICY:

- 6.1 The statutory development plan comprises the Kirklees Unitary Development Plan (saved Policies 2007). The statutory development plan is the starting point in the consideration of planning applications for the development or use of land unless material considerations indicate otherwise (Section 38(6) Planning and Compulsory Purchase Act 2004).

The Council is currently in the process of reviewing its development plan through the production of a Local Plan. 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. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

6.2 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

D2 – Land without notation
H1 - Housing Need
H10/12 - Affordable Housing
H18 - Provision of Open Space
BE1/2 - Design and the Built Environment
BE12 - New dwellings providing privacy and open space
BE23 - Crime Prevention Measures
EP10 - Energy Efficiency
EP11 – Landscaping
R18 – Development adjacent to canals and rivers
T1 - Sustainable Transport Strategy
T10 - Highways Safety / Environmental Problems
T16 - Pedestrian Routes
T19 - Off Street Parking
G6 - Contaminated Land

Kirklees Draft Local Plan Strategies and Policies (2017):

PLP3 – Location of New Development
PLP7 – Efficient and effective use of land and buildings
PLP11 – Housing Mix and Affordable Housing
PLP20 – Sustainable Travel
PLP21 – Highway safety and access
PLP22 – Parking
PLP23 – Core walking and cycling network
PLP24 – Design
PLP27 – Flood Risk
PLP28 – Drainage
PLP30 – Biodiversity and Geodiversity
PLP31 – Strategic Green Infrastructure
PLP32 – Landscape
PLP34 – Improving and enhancing the water environment
PLP35 – Historic Environment
PLP48 – Community facilities and services
PLP51 – Protection and improvement of local air quality
PLP52 – Protection and improvement of environmental quality
PLP61 – Urban Green Space
PLP62 – Local Green Space
PLP63 – New Open Space

6.3 Supplementary Planning Guidance:

- Providing for Educational needs generated by new housing
- Interim Affordable Housing Policy
- West Yorkshire Air Quality and Emissions Technical Planning Guidance
- Kirklees Landscape Character Assessment (2015)
- Kirklees Housing Topics Paper (2017)
- Planning Practice Guidance

Many policies within the National Planning Policy Framework are relevant to this proposal and, where relevant, are referred to in the main report text.

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been advertised in the press, by site notice and by neighbour letter. Four objections have been received summarised below. Unless otherwise stated, these comments are addressed in the main body of the report:

- Mirfield is oversupplied with residential developments for the elderly and care homes.
- The proposal does not add to the economic life of the town.
- The site should be retained for retail or leisure use.
- The development will result in the loss of the open green space and trees adjacent to the canal and consequent effect on aesthetic value. If the application is approved it should be conditional on this space being retained.

Officer response – this is not an area of greenspace and the site is brownfield. Redevelopment is not therefore, unacceptable in principle. Conditions are proposed requiring the submission of a landscaping scheme and biodiversity enhancements.

- Our house faces this proposed development directly on its south elevation and we note the lack of inclusion of our residential development in any document concerning the planning application. No photographs show the direct view across the canal from the south. However, this development proposal will obviously have a visual/privacy impact on us. The proximity of buildings to the existing canal wall mean we will be overlooked directly by flats in 'Block A' whose main windows will look down on the back of our property / our garden and the deep glass fronted balconies will bring the development closer.
- The large number of windows on the south facing blocks will produce a significant amount of glare which will impact on Mr a residents photophobia/disability. The height of the large blocks will impact on the natural light reaching the back of our property.

Officer response – The proposed development is considered to meet the Council's spacing standards as set out in policy BE12 of the UDP.

- Mature trees on the site are not even acknowledged by the developer on their 'planning application form' and will be removed. These trees offer screening to our property from the site and support rainfall drainage. While the plans show some replacement trees, none of these will provide screening to us.
- High density development will significantly impact on the sewerage system and providing larger pipes does not reduce the sewage load/ risk of flooding from the wider areas sewers/drains. The inclusion of appropriate SuDS give us some confidence in the developer's willingness to address the risks of flooding beyond the site. However, who will be responsible for maintaining this facility and where/how the potential pollution from any 'stormwater run off' to be managed?(as there are rats along the canal).

- We do not feel this plan is enhancing the public right of access or enjoyment at the canal side. No major landscaping planned here and nothing to soften the very tall 5 storey structure by the canal.

Officer response – the applicant proposes improvements to the canal. Conditions recommended.

- Whilst there are tall buildings in the centre of Mirfield, none appears as tall as block B and D / looks directly over another low level residential development. We assume the use of metal fencing is to permit drainage from the site. Perhaps a colour other than black might reduce its impact on the canal path which up to now has been a popular walkway but already looks/feels very different due to the loss of 'wall' seating and high fence erected to protect the site...it is unclear if this is the intended 'final construction' .. without the 'razorwire' top!

Officer response – Current fencing on the site is temporary and the proposals include boundary treatments including a wall along the canal frontage and hooped topped metal rail fencing. Conditions recommended.

- We assumed the developer had included the 'community block' in the development as there is no plan to include affordable social housing. However, it is clear there is an agreement for the developer to get the library building for redevelopment. If this is the case it seems a mockery of providing something for the community in amelioration for lack of provision of social housing when these facilities already exist. It is unclear who the proposed hydrotherapy pool would benefit other than residents of the development.

Officer response – A community space is proposed. However, there is no certainty at this stage that this would comprise a library facility and this is not necessary to make the development acceptable in planning terms so cannot be conditioned as a requirement.

- Block A presents unacceptable invasion of my privacy. Residents of this block will have unobscured views looking down onto both my living room and main bedroom, as well as into my back garden. Even were trees to be restored in between this block and the canal, there would be little improvement, although there might just be some improvement in the outlook from my property to the north, which is already going to be degraded.
- Block C presents an overbearing and oppressive structure bearing down over the whole area. From what I can tell of the plans, I will be living under the (possibly literal) shadow of a building akin to a former East European secret police headquarters. This is out of keeping with Mirfield, as well as being an unacceptable architectural statement for the local area.
- Despite the increase in traffic in the local area due to completion of the new Lidl site, I am far from convinced that the *additional* traffic due to these residences on Station Road is safe. Those of us who live here can see for ourselves that the bends and kinks necessitated by the position of the bridge over the canal make Station Road a difficult route for pedestrians to navigate at the best of times and before arrival of the new store, let alone an apartment complex. I do not see any useful solution to this issue being raised in the plans. The plans themselves would benefit from more consideration of the surrounding area. Side elevations that encompass not just the site itself but

also the surrounding area (including, clearly, Brewery Wharf to the south) would illustrate my objections - although I cannot help but think this is the very reason why they have been omitted. We have already had a disruption to local traffic thanks to the arrival of an unwanted Lidl store. Please help us to preserve the quality that makes Mirfield residents wish to stay in our own town, by requiring the developers to scale back on their plans at the very least, to stay within an acceptable level of local traffic disruption and preserve the nature of the town for all its current residents.

- I understand the proposed development is for a closed fenced, gated settlement. This would be anti-social because it would cut residents off from their neighbours and fellow citizens and increase fear of crime in the community. Door entry systems would provide adequate security for residents. If protection is wanted for parked vehicles this should be provided by garages or by compounds with resident-controlled access. The canal provides growing amenity for the town centre. Until fencing enclosed the site, easy access was available via a walkway from Mirfield Library Car Park and along a path provided by Lidl from its car park to the towing path. Access is still available from Station Road and from Newgate. However in the former case this is via a steep ramp or awkward steps and in the latter via a narrow cobbled way under Newgate Road Bridge. These are unsuitable for families with children in buggies and for those with disabilities. Easy access should be retained to facilitate full public enjoyment of this amenity.

Officer response – The applicant proposes improvements to the canal towpath which will improve the quality of the canalside environment for users of the towpath.

- The proposed buildings, especially that nearest the canal, would, because of their height and bulk, be overbearing and out of character with those in the town centre and nearby areas. High buildings in this location would also militate against public amenity by restricting views of the canal and across the valley. Traffic from the development (and from the recently completed Lidl Store) would cause problems on Station Road. These could and should be alleviated by using a narrow strip of land between Bull Bridge (over the canal) and the Library Car Park entrance. This appears to be in the ownership of the developer and/or Kirklees Council. It appears there would then be room for an additional traffic lane to link with that which already exists for left-turning and straight ahead traffic movements at the traffic lights/A644 Junction. The costs of this could and should be met by the developer. Landscaping proposals are unclear. There are small trees on the site which should be retained or replaced as part of a landscaping scheme.

Officer response - The height of the buildings proposed is acknowledged but overall it is considered that the scheme would make a contribution to the local area and improve the canalside environment. The application has been assessed by Highways DM and no objections are raised. Finally, a condition is proposed requiring the submission of a landscaping scheme.

- There should be provision for maintaining the landscaped area(s). If these matters are adequately addressed I would support the re-use of the site for residential purposes.

Officer response – landscaping within the site would be subject to a management plan which would require landscaping to be maintained.

- Mirfield Health Centre - We would like to understand what assessment has the developer undertaken to ensure the increase in population has on the local healthcare provision? The only GP practice in the local area would have grave concerns on the significant population increase this new development would pose on its resources in terms of appointment availability and home visit requirements. The practice would propose a discussion and assessment of this development and as a minimum impose a levy under the community Infrastructure Levy and planning obligations to help support its infrastructure should approval be granted.

Officer response - It is understood that the concern above relates not only to the increase in population as a consequence of development, but the increase in pressure on the health centre due to the restricted age group associated with the proposed development. There is no policy or supplementary planning guidance requiring a proposed development to contribute to local health services. However, PDLP policy PLP49 identifies Educational and Health impacts are an important consideration and that the impact on health services is a material consideration. As part of the Local Plan Evidence base, a study into infrastructure has been undertaken (Kirklees Local Plan, Infrastructure Delivery Plan 2015). It acknowledges that funding for GP provision is based on the number of patients registered at a particular practice and is also weighted based on levels of deprivation and aging population. Therefore, additional funding would be provided for the health centre based on any increasing in registrations at the practice. Long-term funding of health facilities is being considered as part of the Local Plan and Community Infrastructure Levy (CIL). Notwithstanding the above and the lack of evidence to support a contribution being necessary in this case; the applicant has submitted a viability appraisal and any contributions towards infrastructure would deem the current proposal unviable.

Spen Valley Civic Society – Supports the proposal.

Although Spen Valley Civic Society does not normally comment on planning applications outside its area, on this occasion we consider it appropriate to offer supporting comments. This proposed development appears to fit very closely to SVCS's ideas on housing development in town centres. The design appears well thought out and makes good use of limited space. There is a need for retirement housing throughout Kirklees and the location of this development is appropriate for the needs of retired people, being close to essential services, shops etc. The addition of communal activities adds to its attraction. We would hope that Kirklees Council sees the benefits of this type of development and supports similar projects which seek to maximise the use limited space through sensible design.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

Highways – No objection subject to conditions.

Canal and Rivers Trust –

Block 'B' of the proposed scheme is within 12m of moorings to the south of the site, and are also in proximity to a working boat yard (not owned by the

Trust) which is understood to operate seven days a week. These uses typically generate noise, smells and fumes through the operation of engines and general repair works. Whilst a noise assessment has been submitted by the applicant this does not consider the impact of these existing boating operations (with the assessment primarily being with regards to uses to the north of the site).

It is considered that further information is required to assess the potential impact of existing boating operations on the amenity of future residents, particularly any noise and air quality issues and to consider any mitigation necessary to avoid any amenity issues or complaints from future residents, to protect existing economic activities. Without this information, there is no confidence that apartments within Block B would not be subject to unacceptable levels of noise or odour or that the proposed location of Block B is acceptable. This information is therefore considered necessary prior to determination of the application.

The Ground Report submitted with the application dates from 1994/5 and has not been undertaken to current standards. The report is not considered sufficient to determine whether contamination is present on site which may present a risk to the canal during excavation and construction works. We therefore request that an up to date Phase 1 desk study report that fully considers the risks to the waterway and sets out measures to prevent any risk of contamination is submitted for consideration. This is in line with the principles of paragraphs 109 and 121 of the National Planning Policy Framework concerning pollution.

Proposed block 'B' is sited approximately 5m from the southern curtilage of the site, and 12m distant from boats moored to the south. The proposed block is 5-stories in height, and features main living windows and external balconies facing the canal. It is considered that the combination of height, proximity, and the presence of external balconies could result in a significant erosion of privacy for users of the existing moorings. The impact would be more significant than that from the neighbouring development to the west, where the approved building is not as tall and features a reduced number of balconies. The impact on the privacy of nearby residents does need to be considered in line with the aims of policy BE12 from the saved Kirklees Local Plan, which requires the need for design to ensure that no detriment will be caused to existing occupiers of adjacent premises. We therefore request that amendments are made to the scheme to reduce the perception of overlooking towards residential boats to the south. Measures could include the reduction to balcony numbers, the setting back of the building further from the canal (which could also reduce the potential for apartment residents to suffer from noise or odour nuisance from boaters), a reduction in height, and the inclusion of louvre screening to the remaining balconies.

In line with saved policy BE1 from the Kirklees UDP, development should be of a good quality, and contribute to the built environment, which should be visually attractive, and create a sense of local identity. The success in the scheme meeting the requirements of BE1 will depend upon the quality and type of materials and planting used within the buildings and landscaping scheme next to the canal, especially with regards to the replacement wall, new access point, and the railings shown.

The indicative landscaping arrangements do not show any positive engagement with the canal, and we would encourage the developer to consider the opportunity to create a more engaged landscape design aside of the canal for the occupants to enjoy as an amenity area as the scheme is developed further.

We request that full hard and soft landscaping details and southern boundary treatments are reserved by condition prior to development of that element so that the materials and planting can be fully assessed against the requirements of this policy. The use of appropriate native planting between the building and the canal would assist in enhancing the waterway corridor.

In addition to the above, we do note that the ground floor of the block 'B' will be visible from the canal. The narrow openings to the parking area of the block risk making the immediate ground floor appear overbearing to the neighbouring towpath. We therefore would request that consideration is given to widening the openings shown so that they mirror the width of the openings above, which would improve the appearance of this elevation. This would also mirror the arrangement approved for the parking areas upon the development to the west of the site.

In line with paragraph 120 of the National Planning Policy Framework, there is a need for planning decisions to ensure that new development is appropriate for the location to prevent unacceptable risks from land instability. The Planning Practice Guidance (PPG) confirms the important role of the planning system in considering land stability by minimising the risk and effects of land stability on property, infrastructure and the public. (Paragraph: 001 Reference ID: 45-001-20140306). The proposed building works will be situated within proximity to the canal, and will include new retaining walls to deal with the land levels on site.

The developer will need to demonstrate that any temporary or permanent works associated with the proposed development will not impose any additional load onto the canal wash wall and that foundations provide support to his development without any negative impact on the Trust's assets, such as the towpath, walls, or the canal itself. We therefore request that any consent includes pre-commencement conditions that require the submission of foundation details, including cross sectional drawings showing their relationship relative to the canal.

A Construction Management Plan should also be required to include, details of the proposed location of plant and equipment in proximity to the canal, and proposed construction methodology to limit the presence of heavy or disruptive equipment in locations that could affect the stability of the land sloping towards the canal.

We would also request that details of surface water drainage are secured by planning condition, as unintentional runoff from the site towards the canal could undermine the slope stability here.

Flood Risk

We note that the Flood Risk Assessment provided includes a statement that the canal flood gates protect the site from flood risk to the 1:100 level. The

Trust cannot confirm if this statement is accurate, and our infrastructure cannot therefore be relied upon to provide flood protection to this level.

Impact on Biodiversity

In line with paragraph 109 of the National Planning Policy Framework referred to above, there is a need to mitigate any harm to biodiversity on the site, and to provide net gains to biodiversity on site. We would request that any future landscaping scheme considers the use of native planting and measures to increase biodiversity.

8.2 Non-statutory:

Crime Prevention – The proposed blocks B, C and D include having undercroft parking areas. Unless secured properly, and given additional surveillance, such areas can become havens for unseen loitering, anti-social behaviour and crime. What measures are intended to secure these areas?

Adequate surveillance is needed to avoid the opportunity for loitering, car crime, risk to personal safety of residents, and fear of crime. In addition, doors connecting from the under crofts directly into the residential areas of the buildings can be vulnerable as entry points for burglary.

Officer Response – The applicant is preparing a response, the contents of which will be provided to Strategic Planning Committee as an update.

Strategic Housing – No objection. 20% affordable housing required.

Lead Local Flood Authority – No objection in principle.

The applicant has developed a suitable drainage concept and has a potentially suitable solution. However, given the proximity to a Kirklees 'Indicative critical drainage area' and using National advice discharges should be reduced to Greenfield Rates OR as low as reasonably practicable. Reviewing the plans I anticipate that the applicant could provide some additional storage using Geocellular structures or some increases in Pipe sizes to provide increased storage. This would provide betterment above the upper limit of a 30% reduction and would be in the community interest to do so. We request the applicant investigate what is the maximum attenuation feasible on the site and then calculate what discharge rate the site could restrict down to.

Officer Response – The applicant is preparing a response to the comments from the Council's Drainage Engineer. These will be reported to Strategic Planning Committee as an update.

Environmental Health – No objection. The existing boat yard lies adjacent to a housing development and Pollution and Noise Control have confirmed that there has not been a noise complaint for at least 10 years. In addition, a similar residential development has been granted on the adjacent site on the same side of the canal as the proposal. Consequently, whilst Pollution and Noise require additional information to ascertain noise levels from surrounding properties; they are satisfied that mitigation measures can be incorporated in order to address noise impact so that residents indoors and outdoors will have an acceptable level of amenity.

Pollution and Noise also confirm a number of additional conditions relating to Air Quality and Contaminated Land.

9.0 MAIN ISSUES

Principle of Development
Impact on Surrounding Area and Landscape
Neighbour Amenity Implications and Relationship with Surrounding Uses
Highways and Traffic Implications
Flood Risk Issues
Ecological Issues
Heritage Issues
Planning Obligations and Developer Contributions
Other Issues
Conclusion

10.0 APPRAISAL

Principle of development

- 10.1 Planning law requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) is one such material consideration. The starting point in assessing any planning application is therefore, to ascertain whether or not a proposal accords with the relevant provisions of the development plan, in this case, the saved policies in the Kirklees Unitary Development Plan, 1999 (UDP). If a planning application does not accord with the development plan, then regard should be had as to whether there are other material considerations, including the NPPF, which indicate that planning permission should be granted.
- 10.2 The NPPF is a Government statement of policy and is therefore, considered an important material consideration especially in the event that there are policies in the UDP which are out-of-date or inconsistent with the NPPF. Paragraph 215 of the NPPF reinforces that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF.
- 10.3 The NPPF seeks to *“boost significantly the supply of housing...” (para 47)*. Para 47 then goes on to describe how local authorities should meet the full objectively assessed need for market and affordable housing. This requires a range of measures including ensuring a deliverable five year supply of housing. Para 49 states that *“housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites”*.
- 10.4 As evidenced in recent appeal decisions (eg. APP/Z4718/W/16/3147937 - Land off New Lane, Cleckheaton), the Council are falling foul of their requirement to ensure a five year housing land supply by a substantial margin. This is important in the context of paragraph 14 of the NPPF.

- 10.5 Para 14 of the NPPF states that for decision-taking, the presumption in favour of sustainable development means:
- Approving development proposals that accord with the development plan without delay, and
 - Where the development plan is silent, or relevant policies are out-of-date, granting planning permission unless:
Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole; or
Specific policies in the Framework indicate development should be restricted.
- 10.6 As the Council are unable to demonstrate a 5 year housing land supply as required by para 49 of the NPPF, relevant policies relating to housing are considered to be out-of-date. Indeed, the housing land supply shortfall is substantial and falls below 3 years. Whilst the Council have submitted the emerging Local Plan for examination which, for housing purposes, is predicated on the basis of a five year housing land supply; the Local Plan has not been through examination, nor has it been adopted.
- 10.7 Based on the above, there is a presumption in favour of sustainable development and planning permission should only be refused where there are adverse impacts which would significantly and demonstrably outweigh the benefits.
- 10.8 The site is allocated as land without notation (unallocated) on the UDP and in the emerging Kirklees Publication Draft Local Plan (PDLP). Therefore, policy D2 is applicable in this case and residential development is not necessarily unacceptable in principle. It is also the case that the site constitutes brownfield land.
- 10.9 Whilst the PDLP is predicated on the basis of a deliverable five year housing land supply, it has not yet been adopted. Therefore, as the Council is unable to demonstrate a five year housing land supply and housing delivery has persistently fallen short of the emerging Local Plan requirement. This triggers the presumption in favour of sustainable development as advocated by para 14 of the NPPF.

Accessibility

- 10.10 The site is well positioned in terms of residents being able to walk to Mirfield centre where there are a wide range of services.
- 10.11 The footway network along Station Road provides a suitable link with the town centre of Mirfield to the north of the application site and the rail station to the south. Within the recommended maximum walking distance are the local shops and services within Mirfield including a supermarket, butchers, a bank, a post office, a doctor's surgery, dentists, pharmacy and various food and takeaway outlets, restaurants and cafes. The rail station is also well within the walking catchment area for the site. To assist pedestrians to safely access these shops and services within the town centre there are pedestrian crossing facilities at most junctions and signalised crossing points on the Huddersfield Road within the town centre.

- 10.12 The nearest bus stops are located on the Huddersfield Road a maximum distance of 200 metres from the application site. The Huddersfield bound fare stage has the benefit of a passenger shelter & timetable case. The Dewsbury bound stop has a flag / pole and raised boarding kerbs. These bus stops provide access to the several bus services. The nearest railway station from the application site is Mirfield Railway Station located just 250 metres or so to the south of the application site.
- 10.13 The site is well located in terms of access to the cycle network including route 67 and the 'Wonders of Wakefield' cycle route.
- 10.14 Overall the site lies in a wholly sustainable location and there are opportunities to access the local services by a range of non-car modes.

Impact on Character of Surrounding Area and Landscape

- 10.15 Section 11 of the NPPF sets a wide context to conserving and enhancing the natural environment and requires that valued landscapes are protected and enhanced and requires that the level of protection is commensurate with the status and importance of the landscapes.
- 10.16 Policy BE1 of the UDP requires that all development should be of good quality design such that it contributes to a built environment. Policy BE2 states, amongst other matters, that new development should be designed so that it is in keeping with any surrounding development. Policy R18 requires development to have regard to the waterside environment. Policy PDL24 of the PDL requires that good design to be at the core of all planning decisions.
- 10.17 The site lies along the Calder and Hebble Navigation which forms a 'cut' linking to the River Calder to the east and west. Adjacent to the site lies an area of land which is currently undergoing redevelopment by the same applicant as the current proposal. The adjacent scheme comprises the erection of 36 apartments (for the over 55's) which were approved under planning permission 2009/93133. There is a current application under consideration to vary the window and materials details of the approved scheme which is currently being considered under planning application 2017/90550.
- 10.18 The current proposal is intended to continue with the same theme as the adjacent apartment blocks. The application involves the erection of four bespoke blocks, two of which front the canal, with the other two blocks being situated behind. Two of the proposed blocks would front Station Road to the east of the site.
- 10.19 There are considered to be two key views of the site; one being the view from the canal side to the south and the other being the view from Station Road to the east. To a lesser extent the site would also be visible from Mirfield centre. The adjacent, approved scheme has a maximum height of three storeys, with each of the buildings including a pitched roof with fenestration detailing and traditional architectural elements included within each block. The design of the blocks is reminiscent of a traditional mill type building but with a bespoke and contemporary feel, including the provision of lightweight balconies to the front elevation of those apartments facing the canal. To a large extent the current proposal reflects this approach.

- 10.20 The scheme has been designed so as to step down from west to east with the most prominent and large building – Block B – being located in the western portion of the site. The building would be larger than the adjacent, approved blocks and would be designed with the upper floor set back behind a parapet which will accommodate a roof terrace at 5th floor level. The proposed block has been amended so it now includes a pitched roof form. Despite the scale of the building, it is considered that the canalside offers a relatively large area of flat waterfront which would be able to accommodate the scale of the building as proposed without it overwhelming the local area. Whilst the building would be a large feature for users of the canal towpath, landscaping is proposed and there is fencing and a wall to reduce the impact the ground floor parking area may have on the towpath. The fact that block B is flanked by block A, which is three storey in height, means that the development successfully scales down to Station Road to the east. On the western side the already approved block is 3.5 storeys and the height of the approved development progressively diminishes in height towards St Paul's Lock.
- 10.21 When viewed from Station Road, amendments which the applicant has made to the appearance of Block C significantly improve its appearance. The three storey element positioned closest to Station Road includes a pitched roof with the four storey part of the building set within the site comprising an asymmetric roof form. There are windows proposed on this elevation ensuring a positive relationship with the street. The undercroft parking area would be obscured by planting and fencing. Block A would also be visible from Station Road, this being three storeys in height. Whilst Block B would also be visible given its height; as it is proposed behind Block A from this viewpoint, the fact it is set back into the site means it would not appear as an overbearing and oppressive feature when viewed from Station Road.
- 10.22 Views of the site from Huddersfield Road which runs through Mirfield would be filtered by the existing library building, trees which run along Huddersfield Road and a change in levels between Huddersfield Road and the canal. Therefore, whilst there would be views of the development from Mirfield centre, the design and appearance would not be detrimental to the character and appearance of the main street running through Mirfield.
- 10.23 Comments have been made by local residents concerning the loss of trees on site. The proposal includes a landscaping scheme which would include new trees being planted along the site frontage; existing trees are not protected. Planting is also proposed within the site and along Station Road. Full details are to be secured via planning condition along with boundary treatments to ensure that fencing/walling is sympathetic to the surrounding area.
- 10.24 The applicant also proposes to enhance the canalside by providing planting and seating along the canal thus improving the quality of the environment for residents and users of the canal alike. It is proposed to secure full details via planning condition, but the intention is to continue the works that have already been carried out on the canalside in front of the adjacent development.
- 10.25 Overall the proposed development is considered to represent a high quality design in keeping with the adjacent development and sympathetic to the character and appearance of the area. The scheme has incorporated traditional architectural elements and would utilise materials to match the adjacent residential development. The proposed amendment to the scheme, which includes incorporating a pitched roof to all the apartment blocks, assists

in assimilating the development with the local area. The scheme is considered to improve the canalside environment and this, coupled with the proposed improvement to the amenity space along the towpath, would ensure that the waterside environment was improved in accordance with policy R18 of the UDP.

Public Open Space

- 10.26 The proposed development does not include any public open space (POS). Policy H18 of the UDP requires 30sqm of Public Open Space per dwelling on development sites in excess of 0.4 hectares.
- 10.27 There is an area of land adjacent to the site accommodating a number of protected trees, to the rear of the Coop retail unit and the adjacent residential development, which has planning permission for a change of use to a garden/amenity space together with associated landscaping, footpaths and seating area (planning reference – 2015/93074). This permission has not yet been implemented, nor was it a requirement of planning permission 2009/93133 for the adjacent residential development. The current application would provide a footpath link to this amenity space. However, this area of open space would only serve the occupiers of the proposed apartments as a private area of amenity space. Therefore, it would not form an area of POS.
- 10.28 The applicant has also upgraded the towpath to the canal frontage of the adjacent development (this was not a requirement of the planning consent). The current proposal intends to continue these improvements along the canal frontage by way of a scheme which has yet to be agreed with the Council and Canal and Rivers Trust (this could be conditioned). This would constitute a significant benefit as the canal towpath forms part of the core walking and cycling network and is an important piece of green infrastructure and improvements to this are advocated by policy PLP23 and PLP31 of the PDLP. In accordance with para 73 of the NPPF, the scheme provides access to high quality open spaces which can make an important contribution to the health and well-being of communities.
- 10.29 Nevertheless, having regard to the above, whilst improvements to the canal side are welcomed and would offset POS requirements to an extent, those improvements would not negate the need for a POS contribution in this case. The Council's landscape officer has commented on the proposal and based on the floor area of the proposed development, the development would generate a required contribution of £139,150 (£241,524 if a play area/equipment is included). The landscape officer has commented that Ings Grove Park and Mirfield Memorial Park is nearby and any contribution could go towards upgrading facilities at these areas of POS.

Neighbour Amenity Implications and Relationship with Surrounding Uses

- 10.30 Para 123 of the NPPF indicates that planning policies and decisions should aim to:
- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
 - mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through use of conditions.

- 10.31 Policy BE12 of the UDP provides guidance on appropriate separate distances for dwellings. PLP24 of the PDLP requires developments to provide a high standard of amenity for future and neighbouring occupiers.
- 10.32 There are a number of residential properties on the opposite side of the canal, the rear and side elevations and gardens of which face the application site. The rear of no's 2 – 6 Brewery Wharf face the application site at a distance of approximately 21m from the rear garden of these properties to the facing elevation of Block A, and approximately 30m from the rear elevation of these properties to the facing elevation of Block A. Block A is a three storey building and whilst it is understood that balconies would face existing properties; the distances above are considered sufficient to ensure no unacceptable overlooking or loss of privacy. No 21 Brewery Wharf is closer to Block A but the existing dwelling faces the site at a 90 degree angle and therefore, there would be no unacceptable overlooking or loss of privacy for existing habitants.
- 10.33 It is understood that Block B would be 5 storeys in height and include a roof terrace. However, it would be positioned approximately 45m from no's 2 – 6 Brewery Wharf at an oblique angle. There would be no unacceptable level of overlooking/loss of privacy given the distance involved.
- 10.34 Within the development it is accepted that there would be some overshadowing and potential loss of outlook for future occupiers within the southern elevation of Block C and Block D as they would face apartment blocks B and A to the south at a distance of 19m and 15m respectively. However, given that the proposal involves apartment blocks and there is an area of outdoor amenity space dedicated to this proposal, on balance it is considered that future occupiers would have access to amenity space despite potential impacts on their apartments.
- 10.35 The Canal and Rivers Trust have raised concerns with the scale of the development and the potential overlooking of the moorings on the canal. There are 5no mooring posts located along the banks of the canal adjacent to Block A and part of Block B with further moorings to the west close to the adjacent development. There are a number of other boats located at the side of the boat yard. There is no evidence to suggest that the existing moorings offer permanent residence; the mooring posts closest to Block A all appear to be for leisure use. The transient nature of canal users means that the effects on users of the moorings would be for a limited period and any impact should be weighed against the wider benefits of regenerating this part of Mirfield. With respect of the concerns raised by the Canal and Rivers Trust in terms of the potential noise from the boat yard which lies on the opposite side of the canal; Environmental Health have assessed the proposal and raise no objections on the basis that no complaints have been received concerning noise from the boat yard even though there are a number of existing properties in very close proximity of the boat yard. A planning condition is recommended requiring the submission of a revised noise report and appropriate mitigation measures.

Highways and Traffic Implications

- 10.36 Policy T10 of the Kirklees UDP states that new development will not normally be permitted if it will create or materially add to highway safety issues. Policy PLP21 of the PDLP aims to ensure that new developments do not materially

add to existing highway problems or undermine the safety of all users of the network. Para 32 of the NPPF states:

Plans and decisions should take account of whether:

- *the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;*
- *safe and suitable access to the site can be achieved for all people; and*
- *improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*

- 10.37 Vehicular access to the development would be provided from the existing junction on Station Road located to the north of the bridge which runs over the Calder and Hebble canal. The current proposals would utilise the existing access which served the Lidl supermarket and extend pedestrian provision along both sides of the access.
- 10.38 In terms of trip rates, the proposed apartments would generate approximately 6 trips during the AM peak and 8 trips during the PM peak. This is considered to be significantly less than the previous Lidl store at peak times and throughout the day. The community building and pool would generate a relatively low number of trips with access taken via the existing car park access to the north.
- 10.39 In terms of parking provision, the proposed parking provision for apartments would be 100% plus 16 visitor spaces which is slightly less than the UDP parking standards recommendations (a total of 86 spaces are proposed). Parking for the community facility and pool would be provided by the existing car park to the north.
- 10.40 Highways DM have assessed the proposal and consider that, given the sustainable location in Mirfield town centre and that sufficient off-street parking and internal refuse vehicle turning is proposed and that this proposal is not anticipated to be a significant traffic generator, the proposals are considered acceptable from a highways point of view and no objections are raised.

Flood Risk and Drainage

- 10.41 Para 100 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. On the basis that the site lies in Flood Zone 1 (lowest risk of flooding from rivers or the sea), a sequential test is not required in this case.
- 10.42 The submitted Flood Risk Assessment (FRA) considers the risk of flooding from various sources including rivers, groundwater, artificial sources and surface water.
- 10.43 It is proposed to utilise drainage by soakaways which will be located in rear gardens and within the highway. The Council's drainage officer has assessed the proposal and raises no objection in principle subject to the imposition of

appropriate conditions. The National Planning Practice Guidance (NPPG) states that the aim of a drainage scheme should be to discharge run-off as high up the hierarchy as practicable:

- 1 – into the ground (infiltration)
- 2 – to a surface water body
- 3 – to a surface water sewer, highway drain, or another drainage system
- 4 – to a combined sewer

- 10.44 The site falls within flood zones 1, 2 and 3. Flood zone 3 is at the western end of the site with flood zone 1 being at the eastern end. The extent of flood zone 3 is very limited whilst flood zone 2 extends over 60% of the remainder of the site. The site is not considered to form part of the designated flood plains and is therefore designated as Flood Zone 3a at the western end. Part of the site may be considered to be at risk from fluvial flooding from rivers or sea for the 1 in 100 year event and most of the remaining site for the 1 in 1000 year flood event.
- 10.45 The blocks are all designed so that the residential elements are all at first floor level i.e. floor levels around 49m AOD or above which is well above the 1 in 100 and 1 in 1000 flood level. The access into these buildings are all at a level of 46.15 or above and therefore not affected by flood events up to the 1 in 100 year event.
- 10.46 There is a requirement to reduce run-off from the site by 30% and this would be achieved by provision of attenuation storage with a hydraulic flow control device. The applicant states that surface water would discharge into the combined sewer. However, a condition is required in order to detail full drainage details and appropriate investigation of surface water discharge so that water is disposed as high up the hierarchy as practicable. Yorkshire Water and the Lead Local Flood Authority (Council Drainage) raise no objections subject to final details being agreed. The scheme is considered to comply with PLP28 of the PDLF and the NPPF.

Ecological Issues

- 10.47 UDP policy EP11 requires that application incorporate landscaping which protects/enhances the ecology of the site. PDLF policy PLP30 states that the Council will seek to protect and enhance the biodiversity and geodiversity of Kirklees, including the range of international, national and locally designated wildlife and geological sites, habitats and species of principal importance and the Kirklees Wildlife Habitat Network.
- 10.48 The applicant has submitted an ecology report and additional detail concerning the potential for bats to be roosting on site. The Council's biodiversity officer has assessed the proposal and considers roosting bats are unlikely to be a constraint at the site. However, the canal side location of the site means that there is potential for significant ecological enhancement. Consequently, conditions are recommended concerning sensitive lighting, landscaping and an ecological enhancement and management plan. The application is considered to comply with policy EP11 of the UDP and PLP30 of the PDLF.

Heritage Issues

- 10.49 Section 66 (1) of the Listed Buildings Act states “in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”. Para’s 126-141 of the NPPF are relevant to the determination of applications affecting heritage assets.
- 10.50 There are a number of Grade II listed assets within proximity of the site. St Paul’s church lies 60m to the north west of the site but views of the church are obscured by the adjacent permitted apartment development (2009/93133). It is considered that the impact on the setting of the church is limited by the intervening buildings and therefore, there would be less than substantial harm to the setting of the listed building. This harm should be weighed against the public benefits of the scheme.
- 10.51 The lock gates further along the canal approximately 110m to the north west are Grade II listed but there is considered to be minimal impact on the setting of this structure.

Planning Obligations and Developer Contributions

- 10.52 In accordance with para 204 of the NPPF planning obligations should only be sought where they meet the following three tests:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.
- 10.53 In circumstances where a developer considers that there are site-specific issues which would mean the effect of policy requirements and planning obligations would compromise development viability, paragraph 173 of the NPPF states that in order to ensure viability, the costs of any requirements for affordable housing, standards, infrastructure and other requirements should provide a competitive return to a willing landowner and development to enable the development to be delivered.
- 10.54 Paragraph 176 makes clear that where safeguards are necessary to make development acceptable in planning terms, and these safeguards cannot be secured, planning permission should not be granted for unacceptable development.
- 10.55 The applicant submitted a viability appraisal which following the committee meeting on 30th November 2017 the applicant has updated this information which has been assessed by one of the council’s independent viability advisors. These details contain commercially sensitive information that will be included within a private appendix that is exempt from public view.

Other Matters

- 10.56 The application was accompanied by a phase I/II report which stated that the site was uncontaminated. Environmental Health has assessed the report and raises no objections.

- 10.57 In respect of air quality, the application has been assessed against the West Yorkshire Low Emission Strategy Planning Guidance. In accordance with the guidance the installation of 1no electric charging point is required per unit or 1 charging point per 10 spaces and this would be secured by planning condition.

11.0 CONCLUSION

- 11.1 The application site lies on a brownfield site which has recently been used as a supermarket and associated car park. The site constitutes an area of land unallocated on the UDP and the PDLP. The Council are unable to demonstrate a five year housing land supply and the NPPF seeks to boost significantly the provision of housing. The proposed development offers a needed, high quality type of accommodation for the over 55's and an area of floorspace for community use. The site is accessible to local facilities. These aspects weigh significantly in favour of granting planning permission.
- 11.2 The proposed development proposes relatively large apartment blocks set on the canal side. Despite the large scale, the scheme has been designed in keeping with local vernacular and is scaled down so that it is less prominent where it meets Station Road to the east. The prominent, statement building proposed on the canal frontage is considered to be well designed. Overall, the design of the scheme is considered to represent high quality in accordance with policies BE1, BE2 and R18 of the UDP and PLP24 of the PDLP.
- 11.3 In terms of amenity, some impacts have been identified, particularly the impact on the leisure mooring located at the canal side and the amenity of some of the occupiers of future occupiers of the apartments within blocks to the rear of the site. However, given the transient nature of canal users and the wider benefits the regeneration of the site would bring, impact on amenity is not considered to represent significant and demonstrable harm.
- 11.4 The applicant has submitted a viability appraisal. These details contain commercially sensitive information that will be included within a private appendix that is exempt from public view.
- 11.5 The relatively minor impact on the setting of St Paul's Church, which is considered less than substantial in NPPF terms, is considered to be outweighed by the public benefits associated with redeveloping this site for the housing type proposed.
- 11.6 All other matters concerning flood risk, highways, heritage, ecology and landscaping have been suitable addressed. There are no adverse impacts of granting planning permission which would significantly and demonstrably outweigh the benefits. Overall the proposal constitutes a sustainable form of development.

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

- 1. 3 years**
- 2. Materials**
- 3. Drainage details**
- 4. Details of boundary treatments**
- 5. Landscaping plan**
- 6. Lighting details**
- 7. Biodiversity enhancement**
- 8. Structural report concerning canal retaining wall**
- 9. Contaminated land conditions**
- 10. Construction management plan**
- 11. Full details of balcony detailing and roof terrace screening**
- 12. Noise report**
- 13. Details of pedestrian access and gradients from car park**
- 14. Turning facilities to be provided**
- 15. Cycle storage**
- 16. Gates to be set back**
- 17. Canal improvement scheme including full details of implementation and date**
- 18. Amenity garden space 2015/93074 to be provided prior to occupation**
- 19. Occupancy restriction – over 55's.**
- 20. Finished floor and ground levels**
- 21. Details of surfacing of internal paths**
- 22. Crime Impact and Mitigation Strategy**
- 23. Landscaping which shall include a strategy for maintenance**

Background Papers:

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f92997>

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