

By post & by email to dc.admin@kirklees.gov.uk
Planning Services, Kirklees Council
PO Box B93, Civic Centre
Off Market Street
Huddersfield HD1 2JR

7 July 2020

Objection to Planning Application Number 2020/62/91747/E

Dear Sir/Madam

Applicant: D&M Middleton

Agent: Fox Architecture & Design

Location: Land adjacent to 60 Northgate, Cleckheaton, BD19 3NB

Description: Demolition of former dairy/snooker centre/storage and erection of 12 light industrial units

to make an
objection to the above planning application for development of 12 industrial
units on land off Scott Lane and Northgate in Cleckheaton.

Objections

1. Statement of community involvement is false

- 1.1 The applicant's "Statement of Community Involvement" (812051), dated May 2020, claims that at that date all neighbours to site had

been consulted as part of the design development process, that owners of neighbouring properties identified as A to E had been approached with details of the proposed development, and that no adverse comments had been received. This is false. I had no knowledge of the proposed development when this Statement was written in May 2020.

1.2

1.3

1.4

1.5

1.6

full details of the proposed development only became available to me on 29 June, the date the planning application was first posted on Kirklees Council's website. I have seen no planning notice(s) displayed at or near the application site.

1.7

Given the above, and in particular paragraph 1.3, I view the applicant's proposal to erect industrial units as an attempt to intimidate.

2. Certificate of Ownership B is incomplete and misleading

- 2.1 The application site is known to comprise several areas of registered Title, with the majority of the site comprised in the titled areas of land listed below: -
- (i)
 - (ii)
 - (iii) Freehold Title Number WYK821158 - land and buildings on the south side of Scott Lane, Northgate, Cleckheaton (incorporating the above-described leasehold land) – registered owner as at 6 July 2020 The Council of the Borough of Kirklees.
- 2.2 As Kirklees Council owns the freehold of a large area of the site in the location plan, this should have been declared as part of the applicant's Certificate of Ownership B.
- 2.3 As the planning authority will know, the Certificate of Ownership is a signed declaration confirming either that the applicant owns all of the land to which the planning application relates, or, where the applicant is not the sole owner, that all other owners of land or buildings to which the planning application relates have received notice in the legally required form. An "owner" is anyone with a freehold interest or a leasehold interest. From the information currently available, Kirklees Council has an undeclared freehold interest in a large area of the site.
- 2.4 The fact that a planning application with details of the site of the proposed development has been made to Kirklees Council does not relieve the applicant of the legal requirement to give formal notice or to give a complete and accurate Certificate of Ownership.
- 2.5 It should not be assumed that planning officers and Members who make decisions on planning applications would know that an application relates to an area of land in the ownership of the local authority or in which the Council otherwise has an interest. Freehold Title Number WYK821158 is registered to the Legal Services Department of Kirklees Council at High Street Buildings in Huddersfield, not to the Planning Department.

- 2.6 The public also has a right to know through information provided in the planning application made publicly available as part of the public consultation process, that the local authority has an interest in land relating to the application. Local planning authorities have a duty to make decisions fairly and impartially, but obviously bias could occur in any case in which a decision-maker has an interest. A lack of openness and transparency means that pre-determination could become an issue.
- 2.7 Kirklees Council has a beneficial interest in the decision in this case, because the freehold Title Deeds of the land and buildings to the south side of Scott Lane (WYK821158) show that on 20 April 2020 – between the date pre-application advice was given to the applicant by the planning department on 2 February, and the date the planning application was received by the planning department on 9 June - Kirklees Council entered into an Agreement for Sale with the applicant D&M Middleton. Of course the terms of the Agreement are not publicly available, but it would be natural to assume that a sale will be dependent upon planning consent being granted.
- 2.8 It is significant that the published address of the site location refers to _____ instead of to the location as described in the relevant Title registers, with the effect of diverting attention from the matter of ownership and past use.

3 No historic industrial use of the application site

- 3.1 Part 17 of the planning application states that there are 549 square metres of existing gross internal floorspace relating to B2 general industrial use on site, to be replaced by 1834 square metres of internal floorspace for B1(c) light industrial use – the implication being that no adverse impact could arise from the proposed development given past use of the site for general industrial purposes.
- 3.2 The “Design and Access Statement” seeks to support the above by stating that the site is derelict but that historically the northern part of the site has been put to light industrial use and that derelict buildings relating to such use remain on site. It also states that the southern part of the site has had a variety of uses.
- 3.3 This is incorrect, and it is apparent that the applicant is attempting to mislead with respect to past uses of the application site.
- 3.4 Two derelict structures remain on the northern part of the site at the present date: -
- (i) The former day nursery premises of “Kids Come First” – also known as the “Cleckheaton Centre of Play” and previously known as “Bobbysox Nursery”, deleted from the

2005 rating list with effect from 1 April 2008 by reason of being beyond economic repair; and -

- (ii) The former premises of the “Ambassador Snooker Club” - deleted from the 2005 rating list with effect from 16 December 2005 for the same reason -

as evidenced by a ‘2005 Rating List Search Result’ (Appendix B), obtained as evidence for a Valuation Tribunal hearing in 2009.

- 3.5 Neither of the above former uses of the application site could possibly be described as industrial. Day nursery premises fall within use class ‘D1 Non-residential institutions’ which includes clinics and health centres. A snooker club falls within use class ‘D2 assembly and leisure’ which includes cinemas, bingo halls, and gymnasiums.
- 3.6 As previously stated, the majority of the application site is comprised in the areas of land described at para 2.1 above. These areas of land were part of the ‘Magellan site’ that was approved for retail development of an Asda store in 2003 (planning reference 2001/60/92868/E3).
- 3.7 The Title of the land and buildings on the south side of Scott Lane/Northgate - referred to by the applicant as the northern part of the planning application site - encompasses the derelict buildings described above. It was leased by the Spenborough Corporation (now Kirklees Council) to Findus Foods from 1962 for use as a depot. Such use today would fall into the B8 storage and distribution use class, not B1 light industrial or B2 general industrial.
- 3.8 Title Plans show that the Findus food depot buildings were small in scale when considered against the proposed development. The derelict remains on the land today have the same footprint as the original depot buildings – confirmed by the Sewer Plan at Appendix A of the applicant’s Drainage Assessment (812077). The natural fall of the land combined with appropriate siting of the buildings away from adjacent highways would have made the premises unobtrusive. The operation would have been local in nature, with goods vehicles of smaller scale and of less impact than today. Access was from Scott Lane only, a non-residential road, with plenty of space for parking and turning within the depot site.
- 3.9 The land on the east side of Northgate - referred to by the applicant as the land to the southern side of the application site - has been unmade and unused land for a very long time. 1971 Ordnance Survey Plans show that it was land not built upon 50 years ago. Before being fenced off, local residents and customers of the nearby dental surgery at 57 Bradford Road were able to

park on an area of unsurfaced ground within this land,
. From this unmade public car park, pedestrians had a right of way over the land down to Bradford Road via Sickle Street. That is the only use the land has ever been put to

- 3.10 Much earlier maps dating from c1900 describe a series of residential streets across the application site.

In reply to a form of 'Enquiries of Local Authority' in 1963, the Spenborough Corporation stated that the primary use for the area in which 103 Northgate was situated was "*residential*" (Appendix C).

3.11

- 3.12 Kirklees Council would confirm the above because in 2004 it was involved in a Public Inquiry administered by the Government Office for Yorkshire & The Humber relating to an application by Magellan Properties for Stopping Up Orders in relation to six lengths of highway, including the historic streets Garden Street, Foundry Street and Sickle Street, across this land and directly adjacent land off Northgate. The Orders had first been applied for in 1999 but had not been progressed

- 3.13 The Stopping Up Orders were granted by the Inspector to that Inquiry, but *only for the development proposed* – not for any other future development, and therefore not for the present planning application.

- 3.14 Subsequently, Magellan was forced to abandon its plans when Kirklees Council reneged on an earlier agreement to sell land in its ownership that was required for the development - land that now forms part of the present planning application - in favour of an alternative plan by Tesco for a new major foodstore off Serpentine Road. At that point eight years had elapsed since an earlier Public Inquiry had identified a clear and immediate need for a major new foodstore in Cleckheaton. With Magellan and the competition eliminated, Tesco then sold its land on.

- 3.15 Therefore it is clear from all available evidence that there has been no previous industrial use of any part of the application site, and there is no existing G2 general industrial floorspace as claimed.

- 3.16 Other sites in the wider locality, beyond the application site, that were once industrial in character have been transformed and improved in recent years as a result of planning applications that have brought about the replacement of the town's former industrial heritage with a healthy mix of retail premises, care home & retirement premises, and housing. The proposed use of the application site for industrial purposes would reverse that positive trend, and in a specific location having no history of that kind of use.

4 Site will not be put to light industrial use

- 4.1 The planning application form states that the proposal would involve the carrying out of industrial or commercial activities and processes, but does not state what those would be, what the end products might be, or the type(s) of machinery that may be installed on site. The statement "*to be confirmed*" leaves future use completely open.
- 4.2 The proposed Site Block Layout (812055) illustrates multi-wheeled heavy goods vehicles on Northgate after exiting the application site from its egress
- 4.3 The Proposed Elevations show high industrial doors capable of clearing a large heavy goods wagon or articulated HGV.
- 4.4 Heavy wagons are illustrated on the Scott Lane elevation joining the junction of Northgate with Scott Lane/Whitcliffe Road residential housing, and also adjacent to the high industrial doors of Units I to L in close proximity to housing on George Street.
- 4.5 The drawings of the North Elevation Plot I to L show a multi-wheeled HGV travelling up the proposed one-way access road to exit the site onto Northgate.
- 4.6 The tall industrial doors and HGVs illustrated throughout the plans and elevations are inconsistent with light industrial use. Light industrial use should have no adverse impact on residential amenity. It is clear from the plans that the units proposed would be built for any number of industrial purposes that *would* impact adversely.

5 Topographical issues

- 5.1 The existing and proposed plans and elevations supplied by the applicant's agent do not adequately describe the topographical issues affecting development at this site and impacting

- 5.2 The differences in levels (or falls) across the application site are quite substantial. As
the land falls away from this length of Northgate at a considerable gradient,

The differential in levels increases from the Scott Lane end of Northgate in the direction of Horncastle Street. Construction of the Home Bargains store off Northgate/ Horncastle Street required a set of steps from the footway of Northgate down to the store car park.
- 5.3 Therefore in the plans as proposed, in which industrial units A to C are built right up to the footway -
- the intention must be to cut into the banking supporting the footway/highway of Northgate, with implications during excavation and construction for the integrity of my property including its foundations, and also for the integrity of the footway/highway itself.
- 5.4 This is disregarded in the supporting documents supplied by the applicant's architect/agent. No attempt has been made to address the potential implications of constructing up to the footway
or set out the measures that would be taken to support and safeguard

These matters should have been addressed before the planning application was submitted.
- 5.5 The issues that arise from developing up to the footway appear to be the result of a new Title Plan prepared on 29/11/2012 with "an amended extent" in respect of the freehold land and buildings on the south side of Scott Lane/Northgate that at the present date according to Land Registry remain in the ownership of Kirklees Council but with an Agreement for Sale to the applicant.
- 5.6 In the leasehold relating to land described as the Ambassador Snooker Centre, which has been owned by the applicant since 2018 (WYK313240), the boundary is set well in from the footways and highways of Northgate and Scott Lane, reflected in the position of the existing boundary fence which has been in place for many years. The fence is positioned in from the footway, giving a strip of grass and shrubbery between the footway and the boundary of this land.
- 5.7 In the freehold Title Plan (WYK821158) dating from 2012, which incorporates the area of land under leasehold above, the boundary extends to the edge of the highway, so that even the footways of Northgate and Scott Lane form part of the land. The difference is shown in an image provided at Appendix E.

- 5.8 This explains why the boundary on the applicant's site location plan extends beyond the existing boundary fence line. As the Council has entered into an Agreement for Sale in respect of the freehold, the 2012 Title Plan has given the applicant opportunity to develop right up to the edge of the pavement and eliminate the existing strip of grassland and shrubbery. Trees that used to be along this strip of this land and across the site have already been felled in readiness for development to the furthest extent possible.

6.

6.1

7.

8. Adverse impact on tenants

- 8.1 Industrial activity in such close proximity on the scale proposed would impact adversely upon my tenant, potentially affecting my rental agreements with them.

9. Impact on visual amenity

- 9.1 The building of the Stone & McCarthy 'Birch Park Care Home' and 'Brooke Dene Court' residential retirement complex close by off Serpentine Road and Whitcliffe Road together with new affordable housing along this stretch of Northgate has been beneficial not just to the locality but to the town of Cleckheaton. The building of a new retail store on Horncastle Street/Northgate (currently occupied by Home Bargains) has brought the town centre a little closer but in an acceptable way by careful siting, stepped sufficiently back from the footway and highway, to a modest height, and using materials sympathetic to the local built environment. The proposed

development of 12 industrial units, including units directly adjacent to the footway on Northgate, is not consistent with these improvements and would have a detrimental impact upon visual amenity.

- 9.2 Sheet steel units are incongruous in a street scene that is predominantly residential mixed with some low impact retail/office premises, largely built in traditional stone, brick, and slate.
- 9.3 The construction of walls in regular coursed stone on the Northgate frontage only (a single elevation of just 3 units out of the total 12 planned units) is a token gesture that cannot disguise the fact that this would be over 90% metal-clad industrial estate.
- 9.4 There is already plenty of viable commercial/ industrial/ warehouse accommodation in out-of-town locations across the Spen Valley and neighbouring districts.

10. Noise pollution

- 10.1 Industrial works and activities generate noise, and sheet steel cladding on walls and roofs provides poor sound insulation.
- 10.2 The very close proximity of the proposed industrial units to residential housing and business premises would cause unacceptable noise pollution that would impact detrimentally on residents/occupiers - not only on Northgate and George Street but also at the lower end of Whitcliffe Road and even on Bradford Road where there is a dental surgery directly to the rear of proposed Units D-F. Premises such as offices and surgeries should be considered noise sensitive premises as well as residential houses.
- 10.3 Increased traffic and vibration from heavy goods vehicles associated with the proposed development would also impact adversely upon noise levels. Vibration generated by heavy goods traffic can also cause structural damage to property.

11. Traffic and transport issues

- 11.1 The planning application states that there would be parking space provision for 44 cars on site. The Transport Assessment advises that the site would be accessed from Scott Lane and the egress would be formed onto Northgate, giving a one-way system.
- 11.2 As previously noted, the proposed site block layout plan shows multi-wheeled HGVs exiting the site along Northgate, directly in front of residential housing, heading in the direction of the junction

with Horncastle Street and also in the opposite direction towards the junction with Scott Lane/Whitcliffe Road.

- 11.3 As the Transport Assessment fails to note, no heavy goods vehicles have ever used this stretch of Northgate or Scott Lane. Though the plans and elevations illustrate heavy goods vehicles and wagons associated with the proposed development, the planning application form and Transport Assessment omit to mention these types of vehicles.
- 11.4 The parking provision on site does not reflect the actual volume and types of vehicular traffic that would be associated with the development because works and heavy goods vehicles have been excluded from the parking and transport assessment.
- 11.5 It is clear from the drawings that the development would cause a significant increase in traffic in the immediate locality. Some works and heavy goods vehicles could be returning to site frequently throughout the day, and even through the night.
- 11.6 As no heavy goods vehicles have ever travelled along this stretch of Northgate or along Scott Lane, it follows that available historical data relating to accidents and road safety in proximity to the site is of very limited value.

Air pollution

- 11.7 Increased air pollution from exhaust emissions emanating from heavy lorries and other works vehicles entering and exiting the site would have a detrimental impact on the amenity of adjacent and nearby occupiers of residential and business premises

Impact on road surface condition

- 11.8 The additional traffic – especially heavy goods traffic - would also be detrimental to the condition of the road surface which is already very distressed and uneven

Highways/traffic conflicts

- 11.9 The proposed development would also create a highways conflict owing to the proximity of the proposed egress on Northgate to the entrance of George Street which is already affected by poor sight lines, Northgate. The proximity and relationship of George Street to the site egress has been ignored in the Transport Assessment.

Highway & safety issues beyond the immediate site locality

- 11.10 The illustration of an articulated lorry heading along Northgate in the direction of Horncastle Street also raises issues regarding safety at the Northgate/Horncastle Street junction. As vehicles cannot enter the town centre length of Northgate owing to the fact that it is one-way only, works and heavy goods vehicles would have to turn either left down Horncastle Street to the main Bradford Road, or right up Serpentine Road in order to reach Whitcliffe Road. Turning left, this is a tight right-angle junction that is not conducive to heavy lorries and would bring them into conflict with oncoming traffic. Turning right the road narrows considerably towards a dense residential area.
- 11.11 Further, there is no pedestrian crossing at the junction of Northgate with Horncastle Street, and pedestrians commonly cross here to reach the Tesco store from the Market Hall and from Bradford Road. Residents of the care home & residential retirement complex on Serpentine Road close to this junction would also be at risk.
- 11.12 Works and heavy goods vehicles that might exit the proposed site in the opposite direction would have to negotiate the junction of Northgate with Scott Lane/Whitcliffe Road which has very poor sight lines. From here they would either turn right down Scott Lane or left up Whitcliffe Road. Scott Lane at its lower end narrows considerably down to just 5 metres width approaching the junction with Bradford Road not an appropriate width for heavy goods traffic. The junction with Bradford Road turns left at an angle which would require HGV/works vehicles to intrude into the lane of oncoming traffic on a main artery road, and with traffic coming from their right around a blind bend. Whitcliffe Road is a narrow road passing through a dense residential area with cars parked on both sides (
- 11.13 Heavy goods vehicles arriving from the town centre would find it extremely difficult to turn the sharp corner from Bradford Road into the very narrow lower section of Scott Lane, and would not be able to turn unless there was no traffic coming down Scott Lane.
- 11.14 The potential impact of the site on the local highways network and on road safety at the above described junctions has not been considered within the Transport Assessment because it has been inappropriately confined to lengths of highway in direct proximity to the boundary of the site, and no account has been taken of the likely impact of heavy vehicles associated with unspecified industrial activities and processes.

Obstructive parking

- 11.15 Adjacent and nearby properties would also be adversely affected by obstructive parking from cars, and from heavy lorries and other

works vehicles waiting to enter or exit the site. From the plans and information supplied, each industrial unit on the site would have 3 or 4 parking spaces at most, suitable only for cars or small vans and likely to be used by employees.

- 11.16 There is no parking provision at all within the plans for the heavy goods vehicles illustrated. The Scott Lane elevation drawing shows a HGV waiting to the front of Unit L. In the position shown it would block completely the one-way site access road and obstruct all through traffic. It is my understanding that commercial vehicle parking space is mandatory for B8 storage or distribution use. However the planning application form does not apply for consent for B8 use, which I believe is a deliberate omission.
- 11.17 Therefore Scott Lane and Northgate would more than likely attract waiting vehicles including heavy goods vehicles, parked upon the footway obstructing pedestrians, blocking the highway and sight lines, and on Northgate bringing obstructively parked vehicles including large vans and heavy lorries into close contact and conflict with occupants of adjacent and nearby residential properties
- 11.18 The Transport Assessment states that due to Covid-19, a parking accumulation survey has not been undertaken and therefore no evidence/comfort can be provided that the site will not result in on-street parking on the local network.

No proper provision for pedestrians

- 11.19 The proposed development makes no proper provisions for pedestrians. There are no segregated footways within the site to protect pedestrians from works traffic. A supposed pedestrian “right of way” leads only between two units to the rear of Unit F.
.....
- 11.20 Though the Transport Assessment goes into considerable detail to demonstrate that the application site is in a “sustainable location”, it makes little attempt to address the types of issues described above. These issues should be addressed because it is highly improbable that employees, contractors, suppliers and clients of an industrial estate of this nature would be using the local public transport network or cycling to and from the site.
- 11.21 The use of this edge-of-town site for more affordable accommodation would have the advantage of minimising traffic levels, parking issues and air pollution, overcoming many of the above objections.

12 Light pollution

- 12.1 Glare from artificial lighting on site after dark and at night would impact adversely upon neighbouring and nearby properties. The lights of vehicles exiting the site – especially on heavy lorries - would contribute to light pollution.

13 Poor landscaping

- 13.1 Trees on the site that would have stood in the way of the proposed development were felled relatively recently, before the present planning application was made, and the plans as proposed provide little in the way of new planting or landscaping – just one small token area of shrubbery adjacent to the egress. As previously noted, the intention is to take out strips of green land beyond the existing fence line so that industrial units can be built as close as possible to the footway. These strips of land could have been utilised for planting intended to screen the site.

Those of us who have owned / occupied properties in this locality have waited some 20 years for suitable regeneration of this disused and derelict site. The present application is a poorly-conceived plan put together on a minimum cost maximum profit basis, without regard for impact on neighbouring and nearby properties, residential amenity, or local community.

Housing, especially affordable family housing, would be a more appropriate development for an area that has been shown to be historically residential, and would be in keeping with previous planning applications and decisions that have succeeded in greatly enhancing the locality, including seven attractive affordable houses along this stretch of Northgate alongside a well-designed Stone & McCarthy care home and retirement complex.

Yours faithfully