

# KIRKLEES METROPOLITAN COUNCIL

## PLANNING SERVICE

### UPDATE OF LIST OF PLANNING APPLICATIONS TO BE DECIDED BY STRATEGIC PLANNING COMMITTEE

24 FEBRUARY 2021

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**Planning Application 2020/92067**

**Item 8 – Page 17**

#### **Erection of 30 dwellings**

**former, Stile Common Infant & Nursery School, Plane Street, Newsome, Huddersfield, HD4 6DF**

#### Ecology

Within paragraph 10.69 of the report, it was outlined that an ecological contribution of £88,481 had been calculated to provide a 10% ecological net gain for the development, using the Biodiversity Metric 2.0. At the time of publishing, the contribution was being considered by the applicant. Officers can now confirm this figure has been agreed. The contribution is to be secured via S106 agreement, with the money to be spent on local ecological programmes.

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**Planning Application 2018/92647**

**Item 9 – Page 43**

**Hybrid Planning Application for mixed use development - retail/office and 239 residential units (Use Classes C3/A1/A3/B1a). Full Planning permission for the partial demolition of the former Kirklees College, erection of a food retail store with residential above and erection of two mixed use (retail/residential) buildings, alterations to convert grade ii\* listed building to offices and creation of vehicular access from Portland Street, New North Road and Trinity Street. Outline application for erection of four buildings mixed use (residential/office) (Listed Building within a Conservation Area)**

**Former Kirklees College, New North Road, Huddersfield, HD1 5NN**

#### **Additional Consultation Responses**

KC Landscape- No objections subject to conditions:

#### *Summary*

Policy LP63 New open space. The council will seek to secure well-designed new and improved open space, sport and recreation facilities in the district to encourage everyone in Kirklees to be as physically active as possible and promote a healthy lifestyle for all. New housing developments will be required to provide or contribute towards new open space or the improvement of existing provision in the area, unless the developer clearly demonstrates that it is not financially viable for the development proposals.

The applicants have submitted a Viability assessment and officers accept its conclusions. Therefore, the requirement of the provision of no off- site contribution for deficiencies in open space typologies has been justified by the applicant.

The main issue in terms of landscaping on site is the requirement for an Enhanced Landscaping Scheme, given that this is a Strategic site within an urban area. The parking area provided within the retail store is unsympathetic to the *Greening Street Principles* and does not try and achieve visual enhancement. So much more could be done in terms of tree planting within the car park of the retail store to break up the dominance of the tarmac car park and frame the view of the eastern elevation of the retail store upon entry from Portland Street and enhance the environment for residents who will occupy apartments within the wings of the listed building that will look out onto the car park. This is probably the highest- level point of the ring road, visible from this west side of town and potentially will lead the regeneration of this part of the town, it is a very important, visible and strategic site. Half of the site is part of the conservation area.

Plans indicate some landscaped areas in some of the spaces between the buildings and along the road frontages where landscape works should aim to enhance the environment, given the location and strategic position on this gateway site. There is the opportunity for innovative landscape works to unify the site and create a key gateway to the town at this ring road junction. The landscape plans do not yet meet this aspiration. Any street tree planting should meet the requirements in the Highways design guide SPD.

### **Officer Response:**

Whilst officers accept the conclusions on viability, opportunities for enhanced planting within areas of the site such as the car parking area in front of the food retail store and in- front of the apartment wings is recommended when applicants submit detailed landscaping scheme. Conditions that will be included to secure a detailed landscape plan and long-term management as well as waste/ bin storage collection points.

### West Yorkshire Police Designing Out Crime Officer – No objections

Redevelopment of the site is welcomed by West Yorkshire Police, as the site is currently the subject of calls to service to deal with anti-social behaviour, criminal damage and drug use, amongst other crimes. Development should comply with Secured by Design guidance. Specific queries raised as to what is proposed regarding boundary treatments, control of access into blocks, external lighting, secure mail delivery, cycle storage, unauthorised use of retail car park, and security measures/standards regarding entrance door sets and locks, external windows, internal partition wall construction, CCTV and bin stores. Further advice also provided regarding lighting, landscaping, parking, alarms and other matters relevant to crime prevention. Advice of Counter-Terrorism Security Advisor also forwarded.

**Officer response:** A relevant condition (relating to crime and anti-social behaviour prevention measures) would be attached to any planning permission.

KC Noise & Pollution Control - No objections subject to conditions.

### *Summary*

#### *Air Quality*

An Air Quality Assessment (AQA) by REC Ltd (June 2018) was submitted. The proposed mixed-use development site is located partially within an Air Quality Management Area (AQMA 9) which encompasses the ring road and Huddersfield Town Centre. West Yorkshire Low Emission Strategy (WYLES) Guidance development is classified as Major in terms of air quality due to its size.

The AQA advises that there are 2 potential impacts during both the operational and construction phases. Concerns that the proposed 5 storey buildings facing New North Road and Fitzwilliam Street will create a canyoning effect resulting in poor dispersion of pollutants

A damage cost calculation has also been provided to determine the amount (value) of mitigation required to offset the detrimental impact that the development will have on air quality the sum of £341,130.93

**Officer Response** – Agree with the general methodology however, the air quality assessment was undertaken in 2018 baseline data used for the dispersion modelling was taken from 2016 which is not representative of current conditions. Recommend that a revised Air Quality Assessment is submitted and will be required by condition that includes a revised cost damage calculation and any necessary air quality mitigation measures, including a suitable ventilation scheme, to protect any future residents from being exposed to high levels of pollution.

#### *Contaminated Land*

A Phase 1 Desk Study and Preliminary Phase 2 Geo-Environmental Assessment by WML Consulting (27th January 2019) was submitted. There have been potentially contaminative uses on the site (and/or adjoining land) which could impact the development. Gas monitoring was undertaken. Overall, the Phase I aspect of the submitted report is satisfactory. The existing buildings on the site do make intrusive site survey difficult and therefore conditions are required for Phase II and the subsequent phases of development that will commence once demolition of the existing buildings is undertaken.

#### *Noise*

A Noise Impact Assessment by Philip Dunbavin Acoustics Ltd (11 Jul 2018) was submitted. The report concludes that the main source of noise affecting the site is from traffic on the surrounding road network and considers the potential impact of noise from external plant and deliveries on no residential part of site. Conditions are necessary to ensure that satisfactory noise mitigation and control measures are provided. The applicant to demonstrate how adequate alternative ventilation will be provided to substitute for opening windows and alternative ventilation proposals will need to be compatible with any air quality mitigation measures.

### *Electric Vehicle Charging Points*

A significant number of parking spaces are proposed at the development. In an application of this nature, it is expected that facilities for charging electric vehicles and other ultra-low emission vehicles are provided. A condition requiring charging points is therefore necessary.

It is possible to reduce the calculated damage costs by introducing rapid or fast charges within the development such as in the retail food store element of the development

### *External Lighting*

Within some areas it is anticipated that there is need to provide artificial lighting at night pedestrian walkways for safety and security reasons. A condition regarding the specification of any external lighting is necessary to ensure that it is appropriate for the future use and it does not cause excessive stray light and glare.

### *Construction Environmental Management Plan*

Due to close proximity of existing properties close to much of the boundary of the site there is a potential risk that noise, vibration, dust and artificial light associated with the construction phase of the development. It is therefore necessary for a condition requiring the applicant to demonstrate how these risks will be minimised by the use best practice.

### Update on Urgent Works to Listed Building

The applicants have provided the following response to the Heritage section within the main committee report (paragraph 10.81) which identifies *urgent works* that should be done within phase 1 of the development.

*It is simply not possible for the applicants to agree to the phasing proposal put forward by your conservation team. As we have discussed on a number of occasions, and confirmed by the independently reviewed viability appraisal, Phase 1, which includes the demolition of all the buildings aside from the principal listed building and the 2 associated wings and the construction of the new Lidl supermarket, makes a substantial loss. This also necessitates a further spend of c.£1.5m on top of what is already committed to get the site looking like it is a development scheme. Any small return comes only from the sale of the Phase 2 land comprising the new build residential development in the northern part of the site. The money that would have been provided as part of the section 106 obligations relating to education, POS etc is to be spent shoring up the principal listed building to ensure its fabric does not deteriorate.*

*Having discussed this matter with the applicant and in the spirit of offering something, they are able to commit to spending £100,000 on the listed building as part of the Phase 1 works. This will be facilitated directly from funds released by the Lidl deal but given this is deferred for 6 months to allow for the enabling works to be completed, they will have to borrow these funds. As indicated above Phase 1 makes a very substantial loss, but creates the place and the only practical and deliverable outcome is for the landowner to pay a top up payment equivalent to the balance of S.106 monies (£300,000) upon sale of the New Build residential plot. The first £100,000 will be spent on the delivery of new security hoardings, renewed and improved safety and security boarding and any temporary patching of the roof should funds allow.*

*As part of the phasing plan, we would want to continue to work closely with the council to explore what further funds may be available through grants etc as we look to progress this significant regeneration project, widening the range of possible uses for the listed building to ensure maximum commercial exposure. This can only realistically be pursued/delivered once demolition has occurred and interested parties can start to understand the opportunity.*

*Clearly the investment into this site is predicated on the grant of planning and listed building consent so we can get to market with the Phase 2 residential scheme whilst pressing ahead with the enabling works and the construction of the Lidl.*

I trust this sets out the current state of play as regards phasing but please do not hesitate to contact me should you require anything further

**Heritage officer's response:**

It's reassuring to see that the site owners are prepared to commit funds for urgent works at an early stage and we would hope that this can be increased to secure the future of the significant listed buildings early in the phased works

**Further comments from Huddersfield Civic Society (dated 22/02/21)**

Huddersfield Civic Society is concerned that, 18 months after this application was submitted, the recommendation before the meeting is to delegate too long a list of conditions, especially the 32 conditions regarding the 'Full Planning Permission' consent being sought, to Planning officers to resolve without the public or councillors having any visibility or say after 24 February.

This is a key site with high visibility from the ring road, town centre and surrounding conservation areas. Numerous changes have occurred in the 18 months that this application has been 'live'. The Civic Society wants there to be developments on this site and for the recent decay to be arrested and turned round. We note also that Historic England has submitted three detailed contributions, the most recent of which (September 2020) itemises many concerns still to be addressed in any approval being given.

The Society believes that the correct process to be followed is for an application to be refused, or accepted with specified conditions, and that only minor matters ought to be delegated to officers to resolve subsequently.

Here there are many issues the Society considers to be major that officers are being left to resolve, including:

- The external appearance of the supermarket itself, given it is in a very prominent location when viewed both from the ring road/town centre and from the listed former infirmary buildings;
- The form, design and appearance of large new-build blocks (covered by the OPP) which all agree cause harm to the conservation area and its setting;
- Significant parts of a travel plan, including pedestrian and cycle access arrangements, cycle parking plus electric vehicle charging points to meet climate emergency requirements;

- Whether it can be ensured that the restoration and conversion of the infirmary and adjacent listed buildings are prioritised;
- How the Grade II\* listed former infirmary building will be maintained, including the many 'urgent works' (identified by Kirklees Heritage Officers and stated in this pack) before work starts and how these conditions will be enforced?

Huddersfield Civic Society therefore asks that how the many outstanding items are resolved is handled openly and transparently through a new application being made.

### Officer Response

The comments regarding delegating authority to officers are noted however the precise wording of conditions is still to be worked up if committee resolve to approve the officer recommendation. This process is transparent and is not a material planning consideration. The issues raised regarding the external materials, phasing and urgent works to listed building are all discussed within the appraisal of the main report. No additional comments are required.

### Viability

The key matter of the proposed development's viability is included within paragraphs 10.67-10.77 of the main agenda. The table below and summary paragraph is included with the aim of simplifying the differences between the applicants Viability Appraisal (VA) and the VA undertaken on behalf of the council's viability advisors (AY).

	<b>Applicants VA</b>	<b>AY VA</b>
<b>Sales Values</b>	£240per sq ft resi conv & £250per sq ft – resi new bld	£250 per sq ft resi conv & new build
<b>Development Value</b>	Office conversion of building 1 not included	Office Conversion of building 1 £1,334,713
<b>Build Costs</b>	£140 per sq ft resi new build & £145 per sq ft - conversion	£122.54 new build resi (ext alts only) £113 per sq ft resi conv & £90.3 per sq ft officer conv
<b>Contingency</b>	2.5% on construction costs	5% on construction costs
<b>Project Fees</b>	6.8% on build costs	8% on build costs
<b>Land Value</b>	£2,350 000	£1,100 ,000

### Summary

The NPPF revised 2019 Kirklees Council's Viability Guidance Note (June 2020) indicates that developer profit that falls within the 15-20% range of GDV, may be considered a suitable return to developers. Whilst there were some differences in the calculations, AY arrived at the same conclusion as that of the applicant's Viability Appraisal (VA). Sensitivity Testing of the scheme's viability in paragraph 10.75 of the main report demonstrates that even when all S106 contributions are removed from the scheme, the profit level of 11.74% GDV (12.21% on cost) falls well below that recommended within the NPPF of 15-20%. Additional costs to the applicant will have an impact upon delivery of the scheme. Officers therefore recommend that no S106 contributions are required with this development.

## **Additional Conditions**

List of Conditions in addition to those identified within section 12 of main committee report:

1. Detailed landscape plan and long-term management landscape and ecological design (LEDS)
  - full planting specification,
  - hard landscape materials and boundary treatments
2. Details of where bin storage & bin collection points are required
3. A revised full Air Quality Impact Assessment shall be submitted to the LPA
  - impact that the development will have on air quality
  - include a calculation of the monetary damages from the development
  - include a fully costed mitigation plan
4. External Artificial Lighting
5. Scheme for security measures in the interests of crime prevention

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**Planning Application 2019/91467**

**Item 10 – Page 79**

### **Erection of 67 dwellings with associated access and parking on land south of, Granny Lane, Mirfield**

Since the publication of the Committee Report, a further 5 representations have been received, taking the total number to 190. The main issues raised in these representations are summarised below:

To defer the application once again on the absurd grounds that the houses are too small is ludicrous and another indication that the council is inventing yet another 'excuse' to allow time for Miller Homes to reconsider their inaccurate Flood Risk Assessment;

In just the past few weeks (Jan-Feb 2021) we have seen further flooding from Vallance Beck and surface water flooding onto Granny Lane, Hagg Lane and flooding from the main River Calder onto Steanard Lane cutting off access to residents and drivers - this also blocked the entire entrance to the planned site;

The latest consultation has only been opened to residents who will 'directly' be impacted by the development. This is again another attempt to block genuine objections from Mirfield residents in favour of Miller Homes;

A decision should have been made to reject the application on the many grounds residents have raised in addition to the photographic evidence of flooding, highways safety and accounts from schools and GPs;

The scheme still does not address the impact of flooding and road closures that will only continue to get worse as climate change continues. Everything about this development flies in the face of biodiversity and will destroy natural hedgerows for sparrows, and other wild life that take cover in the hedges;

The residents understood it was the duty of care for a LA to protect existing homes from flooding or further flooding by addressing and accepting that climate change exists and continues to be a threat;

'Granny Lane will become the centre of unwanted intruders and an eyesore with "noddy" houses standing as carbuncles in the space of a rural greenspace';

The fields on Granny Lane on which Miller homes propose to build are part of the flood plain of the River Calder- which has flooded 7 times in the last 5 years;

The local roads - Granny Lane, and Steanard Lane that feeds it from the A644 end- is unsuitable for further heavy traffic that this proposed estate will cause. Already this road is unsuitable for the amount of traffic it receives; it is narrow and the roadside barrier that separates it from the River Calder is unsafe and broken in many places;

The plan for the proposed development by Miller Homes is horribly cramped and overcrowded. A local surveyor has advised us that this plan is over developed;

Filling in green field sites like this, so close to areas of nature beauty which support such diversity of flora and fauna, is an unnecessary and reckless planning decision.

### **Response to representations:**

The application was deferred at the request of officers to review and reassess the scheme against the Government's Nationally Described Space Standards (NDSS). The FRA has not been re-considered.

The site is not a flood plain in any planning context.

The matters raised by residents with regard to flood risk, highway safety and the state of local roads have been raised in previous consultations and are addressed in the report.

The density of development is consistent with Local Plan Policy LP7, which states that developments should achieve a net density of at least 35 dwellings per hectare.

There is no statutory requirement for local planning authorities to re-consult on planning applications. Following the review of the scheme against the NDSS and a minor amendment to the floorplans of Plots 39-46 (within the site) and Plots 2-10 (western edge) a more focused consultation exercise was undertaken of those properties directly affected by the changes. The Granny Lane Area Action Group and Save Mirfield were also advised of the changes. This is considered to be reasonable and proportionate.

Matters of ecology are addressed in the report. Whilst there would be some loss of an existing hedgerow, the landscaping scheme indicates additional hedge planting to the south of the development and adjacent to the public open space.

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**Planning Application 2019/91105**

**Item 11 – Page 147**

**Outline application for erection of residential development including means of access to the site north of Old Bank Road, Mirfield (63 dwellings)**

**Land off, Old Bank Road, Mirfield, WF14 0HX**

The applicant has requested that the application is deferred. This is to give them more time to analyse and respond to the most recent comments from Environmental Services and potentially have a meeting with officers.

As detailed in the committee report, officers have very significant concerns with contamination issues on this site which have not been adequately addressed by the applicant through the current submission. The application was submitted in April 2019 and officers had a meeting with the applicant in July of that year where advice was provided on the level of information that would need to be submitted to enable a robust assessment. Additional information was subsequently provided by the applicant in 2020 and earlier this year.

There is a long-running history to this site with two previous applications having been withdrawn after they were included on a committee agenda, both times with a recommendation to refuse.

Given the background to this site and the length of time the application has been lodged with the council, it is considered that the application should be determined. Officers will however have a meeting with the applicant to discuss whether there is any reasonable scope to safely develop this site under a new application.

**Highways:**

An amended plan to address the internal road design issue, as described in the committee report, has not been submitted. This matter could however be addressed at a later date or through a condition.

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**Discharge of conditions 14 (affordable housing), 15 (public open space) and 16 (education) of previous permission 2018/91119 for outline application for erection of residential development**

**Rear of, 11, Holme Avenue, Dalton, Huddersfield, HD5 8DP**

**AMENDED RECOMMENDATION:**

**DELEGATE approval of the discharge of conditions 14-16, subject to a Section 106 agreement to secure two starter homes on the site.**

Condition 14 (affordable housing):

Since the committee report was published the applicant has offered to provide two starter homes on the site (to be sold at 20% below the market value).

The applicant maintains their original position as to the viability of the development but has made this offer to progress the application to a positive conclusion.

The council's independent viability appraisal indicates that, with the inclusion of two starter homes, the development would still achieve a profit level that is within the generally accepted range of 15-20% of the gross development value (GDV).

The committee report stated that with this number and type of affordable unit the scheme would generate a profit of 16% of the GDV. It should be noted that this was a rounded figure; the exact profit level would be 15.53% of the GDV, which is only 0.53% above the normal minimum expectation.

As an affordable housing product, starter homes have less of an impact on the developer profit than other types of affordable housing such as Social Rent. The independent analysis considered whether different tenure types could viably be delivered, for example one Social Rent unit plus one intermediate unit and just a single Social Rent unit on its own. However, it was only the starter home model that enabled a profit of at least 15% of GDV to be achieved.

Based on the independent appraisal, it is evident that the scheme could not viably deliver a policy compliant level of affordable housing – which would be four units. Furthermore, even at a reduced level of provision the scheme could not viably deliver a tenure split that accords with the council's Interim Affordable Housing Policy, which seeks a split of 55% affordable rent and 45% intermediate tenure.

The independent appraisal does however show that a reduced level of affordable housing can be provided in the form of two starter homes, whilst also maintaining a profit level for the developer which is within generally accepted parameters. The profit level is nevertheless at the lowermost end of the range. What constitutes a suitable return for a developer is dependent on a number of factors, but it is ultimately a reflection of risk. At 15.53% profit it would suggest a somewhat low risk scheme.

Based on the above, officers consider that acceptable arrangements have been proposed by the applicant. It is therefore recommended that the condition be discharged subject to the completion of a Section 106 agreement to secure two of the dwellings as starter homes.

Where starter homes have been provided on other sites, the council has secured them as such in perpetuity. This means that the dwellings will always be required to be sold at least 20% below the market value to a qualifying person; this ensures that they will remain 'affordable' for the lifetime of the development. This would be reflected in the Section 106 agreement.

#### Condition 15 (open space):

The approved development triggers an open space contribution of £37,351 in lieu of on-site provision.

The independent viability appraisal shows that if the open space contribution is included along with two starter homes then it results in a profit of 14.91% of the gross development value. This is therefore below what is generally considered to be the minimum suitable return for a developer.

Officers have previously stated that there is a degree of risk to this development, principally as a result of the site's steep topography, which reflected advice from the independent assessor.

It is not considered that the development could viably deliver an open space contribution together with two affordable units. The inclusion of the open space figure would reduce the profit below the generally accepted minimum and taking into account a degree of risk with this scheme, officers have concluded that it would be unreasonable to seek an open space contribution.

Members of the committee and ward councillors specifically expressed a desire to see the provision of some affordable housing on this site and it is considered that this can be delivered. However, based on the independent analysis, it is not considered that there would be justifiable grounds to seek an open space contribution as well.

In conclusion, officers recommend that condition 15 is discharged on the basis of zero open space provision.

Councillor McGuin comments:

The following comments have been received from Councillor Bernard McGuin. These comments reflect the content of the original committee report and not the amended recommendation as set out within this agenda update.

*"I would like to thank the officers for coming back with this report.*

*This report vindicates ward councillors opposing a complete discharge of all conditions. I agree though that because there are less than 25 houses in the planning application, there does not have to be a contribution to Education.*

*In the last report there was no contribution to affordable housing. The up-to-date calculation says there can be 2 houses to be sold for affordable housing. This is an improvement on before but still less than the 20% normally provided.*

*I hope you agree to the refusal to agree to discharge the condition for affordable housing and open space provision. The affordable housing is my main concern here.*

*As I cannot make the meeting today, may I please thank the Strategic Planning Committee for listening and acting on the concerns of myself and residents of the ward at the last committee meeting. I don't often agree with planners and I make an exception this time in urging you to accept the officer recommendation."*

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