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**Report of the Head of Planning and Development****HEAVY WOOLLEN PLANNING SUB-COMMITTEE****Date: 03-Feb-2022****Subject: Planning Application 2021/91801 Outline application for erection of petrol filling station 151, Heckmondwike Road, Dewsbury Moor, WF13 3NS****APPLICANT**

Acumen

**DATE VALID**

10-May-2021

**TARGET DATE**

05-Jul-2021

**EXTENSION EXPIRY DATE**

04-Feb-2022

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

[Link to Public speaking at committee](#)

**LOCATION PLAN**

**Map not to scale – for identification purposes only**

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**Electoral wards affected: Dewsbury West**

**Ward Councillors consulted: No**

**Public or private: Public**

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**RECOMMENDATION:**

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

**1.0 INTRODUCTION:**

- 1.1 This planning application has received a large amount of public interest in the form of a significant number of representations, and it is for this reason that the application is being reported to the Heavy Woollen Planning Sub-Committee for decision. This is in accordance with the Council's Scheme of Delegation.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The site is a vacant plot of brownfield land located at the west of Heckmondwike Road in the settlement of Dewsbury. A bungalow once stood on site which has now been demolished. The application site has extant planning permission for the erection of 6no. dwellings, approved by planning permission 2020/92309. A housing development is sited to the west in addition to a recently constructed care home to the north.

**3.0 PROPOSAL:**

- 3.1 This is an outline application for planning permission with all matters reserved for the construction of a petrol filling station.
- 3.2 The indicative plan submitted with the application shows a sales kiosk to the north of the site, to be used as part of linked trips associated with use of the petrol pumps. 6no. banks of petrol pumps are also indicated on plans.

**4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

- 4.1 2020/92309 Erection of 6 dwellings with associated parking *Approved 13/NOV/2020*

2017/92271 Erection of 6 no. dwellings with associated roadway and parking, demolition of existing bungalow *Approved 22/DEC/2017*

2005/93913 OUTLINE APPLICATION FOR ERECTION OF RESIDENTIAL DEVELOPMENT (3 NO. DWELLINGS AND 1 NO. GARAGE BLOCK) *Approved 08/FEB/2006*

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

- 5.1 KC Environmental Health requested a noise report in relation to the application. Although this is an outline planning application with all matters reserved, it was felt necessary to obtain this report at outline stage as matters relating to noise and issues around environmental health are central to whether a petrol filling station is acceptable in principle in this predominantly residential location. A revised indicative site plan has also been obtained showing the removal of the Jetwash element to ensure that the petrol filling station does not unduly impact on local residential amenity.
- 5.2 Through the course of the application, further information was requested from Highways DM in the form of swept path manoeuvres to demonstrate that a tanker and service vehicle can adequately access and egress the site from all directions. This has been received and is considered to be acceptable.
- 5.3 In addition to the above, concern was raised by the Highway Safety team in respect of vehicles parking on the highway, should all the pumps on the forecourt be full. The agent's Transport Consultant has been asked to provide a calculation of the peak levels of customers in terms of numbers and if there is sufficient room within the site to accommodate this internally. This information is awaited and will be reported in the update.

## **6.0 PLANNING POLICY:**

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

### Kirklees Local Plan (2019):

- 6.2 **Kirklees Local Plan (KLP):**  
**LP 01** – Achieving sustainable development  
**LP 02** – Place shaping  
**LP 21** – Highway safety and access  
**LP 22** – Parking  
**LP 24** – Design  
**LP 52** – Protection and improvement of environmental quality  
**LP 53** - Contaminated and Unstable Land

### Supplementary Planning Guidance / Documents:

- 6.3 None relevant to this application proposal.

### National Planning Guidance:

- 6.4 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20<sup>th</sup> July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6<sup>th</sup> March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

Chapter 2 – Achieving sustainable development

Chapter 6 – Building a strong competitive economy

Chapter 8 – Promoting healthy and safe communities

Chapter 11 – Making effective use of land

Chapter 12 – Achieving well-designed places

Chapter 15 – Conserving and enhancing the natural environment

## **7.0 PUBLIC/LOCAL RESPONSE:**

7.1 26 no. letters of objection from members of the public received, as well as a petition with 60no. signatures.

7.2 Comments centre on three main issues: 1) traffic safety, 2) noise, particularly with reference to the neighbouring care home use and 3) pollution

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

*KC Environmental Health* – no objection subject to removal of jet wash element from the scheme.

*KC Highways DM* – requested further information on swept path analysis which has been provided by the applicant in respect of tanker movements.

*The Coal Authority* – no objection subject to standard Coal Authority conditions regarding a scheme of intrusive investigations and a signed statement.

### **8.2 Non-statutory:**

*KC Crime Prevention/West Yorkshire Police* – makes recommendations on designing out crime; specifically ram raid bollards, lighting standards, natural surveillance, secure site perimeter and a defensible space around the ATM.

## **9.0 MAIN ISSUES**

- Principle of development
- Urban design issues
- Residential amenity
- Highway issues
- Representations
- Other matters

## **10.0 APPRAISAL**

### Principle of development

10.1 As this is an outline application for planning permission with all matters reserved, the sole material consideration to be assessed is the principle of whether a petrol filling station in this location would be acceptable.

- 10.2 Chapter 2 of the NPPF introduces the presumption in favour of sustainable development, which is the focus of policy LP1 of the Kirklees Local Plan (KLP). This policy stipulates that proposals that accord with policies in the KLP will be approved without delay, unless material considerations indicate otherwise. Policy LP24 of the KLP is the overarching policy in relation to the design of all proposals, requiring them to respect the appearance and character of the existing development in the surrounding area as well as to protect the amenity of the future and neighbouring occupiers, to promote highway safety and sustainability. These considerations, along with others, are addressed in the following sections in this report.
- 10.3 The site is a brownfield site in a settlement where development is acceptable in principle subject to taking into account all material planning considerations. The site is unallocated in the Kirklees Local Plan. The proposed petrol filling station would constitute a sui generis use for the purposes of the Town & Country Planning Use Classes Order; there is no policy exclusion in this specific location relating to that use class.
- 10.4 In terms of the specific proposed use, it was considered necessary by the case officer to consult Environmental Health and to obtain a noise assessment from the applicants prior to the determination of the application, as the matter of noise in terms of the impact on residential amenity of nearby properties is considered to go to the heart of the permission as a matter of the principle of development in this location. KC Environmental Health have reviewed the noise report by Clover Acoustics dated 27 September 2021 (Ref: 4617- R1) and agree with the contents of the report. Due to the predicted measurements of forecourt ancillary equipment being +10dB above background noise levels they recommended the removal of the originally proposed Jet wash facility. As such, a revised indicative drawing has been obtained omitting the jetwash element from the scheme.
- 10.5 Overall it is considered that the principle of development of a sui generis petrol filling station in this area is acceptable.

#### Urban Design issues

- 10.6 The design of the scheme is to be dealt with at reserved matters stage. Notwithstanding this, the indicative plan demonstrates that a petrol filling station can be accommodated on the site. Based on the details submitted, the overall form and massing would not result in an overdevelopment of the site, and the proposed building would not appear incongruous in this roadside location, amongst development of a variety of forms. Officers are therefore satisfied that a scheme could be accommodated on the site which would have an acceptable impact on visual amenity, in accordance with the aims of policy LP24 of the KLP as well as chapter 12 of the NPPF.

#### Residential Amenity

- 10.7 Although this is an outline application with all matters reserved; matters relating to the impact on residential amenity arising from the jetwash element are considered fundamental in determining whether or not this is an acceptable location in principle. As stated above KC Environmental Health have no objection to the proposed petrol filling station on noise grounds now that the

proposed jetwash element has been removed from the scheme. for clarification, should this outline application be approved there will no longer be a jetwash element included as part of the scheme.

- 10.8 The site is somewhat elevated in relation to the neighbouring western properties however the nature of the proposed canopy building at a petrol filling station would allow light to continue to transmit to these houses. It should be acknowledged that planning permission on this site has been granted previously for housing and in those circumstances, it was considered to have an acceptable impact on these neighbouring western houses in terms of privacy and amenity. In the application proposal now under consideration for the petrol filling station, 17m would be retained from the east facing rear elevations of these properties to the approximate centre of the nearest car lane on the indicative plan. However, at reserved matters stage this can be amended further to ensure an acceptable relationship between these properties and the petrol filling station.
- 10.9 The proposed lighting at the petrol filling station would be controlled by condition to ensure KC Environmental Health deem it acceptable prior to its installation. Further conditions relating to delivery hours (within reasonable times) is recommended to be conditioned and information will be sought at reserved matters stage relating to delivery detail to mitigate any further potential harm.
- 10.10 Overall, subject to the proposed layout complying with appropriate distances at reserved matters stage, the level of residential amenity with neighbouring properties would be retained. On this basis, and with the inclusion of appropriate conditions, the proposals would accord with Policies LP 24 and LP 52 of the Kirklees Local Plan (KLP) as well as chapter 12 of the National Planning Policy Framework (NPPF).

#### Highway issues

- 10.11 The site is accessed directly from Heckmondwike Road and the access and egress would operate as a one-way system. The southern access point would serve as the entry point whilst the northern access point would serve as the exit point, both these accesses are sufficiently wide at 10.5m to ensure access by larger vehicles can be achieved. Signage denoting entry and exit only points would be implemented. Swept paths are provided to show how a tanker and service vehicle can access and egress the site from Heckmondwike Road and how a standard car can manoeuvre around the site and into and out of the proposed pumps and parking spaces. The predicted traffic generation for the proposed site has been calculated using trip rates derived from TRICS database. This demonstrates that the proposed development would be used by around 54 and 62 vehicles in each peak hour. The number of spaces proposed in front of the kiosk is 6 for customers only who would be using the shop. The remaining car borne custom would be drawn from people who have also purchased fuel and so their vehicle would be stationary at the 6 pumps whilst the occupant goes into the shop. This report concludes that the development is considered acceptable in terms of traffic impact.

- 10.12 Through the course of the application, further details have since been provided by the applicant illustrating additional swept paths for the tankers. This has been received and is considered to be acceptable. Moreover, additional justification has also been sought from the applicant relating to the potential for vehicles parking/stacking on the highway should all the pumps on the forecourt be full, exacerbating existing on-street parking problems on Heckmondwike Road. This further additional justification will be reported in the update.

### Representations

- 10.13 Comments centre on three main issues: 1) traffic safety, 2) noise, particularly with reference to the neighbouring care home use and 3) pollution.

It is acknowledged that careful regard will need to be had to the impact on the road network; whilst access is a reserved matter, the vehicular movements generated by a petrol filling station do need to be considered at this stage. KC Highways have reviewed additional information from the applicant relating to highway safety in terms of a swept path analysis and this is considered acceptable. Further information has been requested in regard to comments received from Highway Safety and will be reported in the update to members.

- 10.14 In terms of pollution and noise this has been assessed by KC Environmental Health. Officers have carefully considered the principle of a petrol filling station at this stage and the impact such a use would have upon the residential amenity of surrounding occupants. The noise report indicates that the jet wash element would not be acceptable in terms of noise levels and as such this has been omitted from the scheme. Although this is an outline application assessing the principle of development only and that matters relating to layout and scale are reserved at this stage; an indicative plan has been obtained removing the Jetwash element for clarification purposes.

### Other Matters

- 10.15 *Coal Mining Legacy* - The Coal Authority and KC Environmental Health have recommended conditions pertaining to coal mining legacy and land contamination to be appended to the decision notice, should permission be granted. This would ensure that the proposal complies with the aims of chapter 15 of the NPPF.
- 10.16 *Climate Change* - On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target. However, it includes a series of policies, which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

- 10.17 In this instance electric vehicle charging points will be required by condition as part of the approval of this application. Linked journeys with the on site sales kiosk would reduce trips further afield to neighbouring supermarkets. There is a strong economic sustainability argument and in this respect it is considered that in the overall assessment of sustainability, including environmental, that the scheme is appropriate in this regard.
- 10.18 *Crime Prevention* - KC Crime Prevention have made recommendations relating to designing out crime; specifically ram raid bollards, lighting standards, natural surveillance, secure site perimeter and a defensible space around the ATM. They have also commented on the illumination of internal shop floor spaces and security glazing. These are advised to be incorporated into the design of the development at the reserved matters stage.
- 10.19 *Contaminated Land* - KC Environmental Health have reviewed the Phase I Contaminated Land Report by Demeter Environmental Ltd dated June 2020 (Ref:17-04-03 Revision 1) and agreed with its conclusions. Conditions relating to the Preliminary Risk Assessment approved shall be appended to the Decision Notice. Groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the Local Planning Authority. The inclusion of such conditions shall ensure that the proposal complies with the aims of policy LP53 of the KLP and chapter 15 of the NPPF.

## **11.0 CONCLUSION**

- 11.1 The proposed petrol filling station would represent an appropriate use of this brownfield site within a settlement boundary, providing an economically sustainable source of employment and provision of linked trips through use of the on site sales kiosk. It would not unduly harm visual or residential amenity, subject to appropriate conditions, and would be acceptable in terms of its impact on the highway network.
- 11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF, taken as a whole, constitute the Government's view of what sustainable development means in practice.
- 11.3 This application has been assessed against relevant policies in the Development Plan and other material considerations. It is considered that the development would constitute sustainable development and is, therefore, recommended for approval.

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

1. Standard 3 year time frame for the commencement of development.
2. Development to be completed in accordance with the submitted plans.
3. Provision of Electric Vehicle Charging Points
4. Submission of a Phase 2 Intrusive Site Investigation Report
5. Submission of Remediation Strategy
6. Implementation of the Remediation Strategy
7. Submission of Validation Report
8. Scheme of intrusive investigations
9. Signed statement of declaration relating to coal mining legacy
10. No jet wash element
11. Hours of use

### **Background Papers:**

*Web link to planning application details:*

[Link to application details](#)

Certificate of Ownership –Certificate A has been signed

*Previous extant planning approval:*

2020/92309 - Erection of 6 dwellings with associated parking

[Link to application details](#)