

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning 1990 (as amended) – SECTION 70

DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS

Reference No: 2021/61/91932/E

Site Address: Former North Bierley Waste Water Treatment Works,
Oakenshaw, BD12 7ET

Description: Reserved matters application pursuant to outline permission 2016/92298 for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) relating to Phase 4 - the construction of 2 x industrial warehouse units with ancillary office accommodation (approximately 6021m² and 4046m²) with parking and landscaping, including the discharge of Condition 6 (Bio-diversity Enhancement Management Plan), Condition 17 (Site Investigations), Condition 19 (Public Rights of Way), Condition 29 (Noise Attenuation) and Condition 31 (Electric Vehicle Charging Points).

Recommending Officer: Nick Hirst

DECISION – Reserved Matters – Approve

I hereby authorise the approval of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

Kate Mansell

AUTHORISED OFFICER

Date: 12-Nov-2021

Application:	2021/61/91932/E
Site:	Former North Bierley Waste Water Treatment Works, Oakenshaw, BD12 7ET
Proposal:	Reserved matters application pursuant to outline permission 2016/92298 for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) relating to Phase 4 - the construction of 2 x industrial warehouse units with ancillary office accommodation (approximately 6021m ² and 4046m ²) with parking and landscaping, including the discharge of Condition 6 (Bio-diversity Enhancement Management Plan), Condition 17 (Site Investigations), Condition 19 (Public Rights of Way), Condition 29 (Noise Attenuation) and Condition 31 (Electric Vehicle Charging Points).

Site Description / Site Context

The application site extends to approximately 23 hectares incorporating the area of the former North Bierley Waste Water Treatment Works (WWTW) as well as agricultural fields. It is situated to the north-west of the M62 and to the east of the M606. The site slopes down from the north to the south with motorway embankments to the south and west. Access to the site is achieved from Cliff Hollins Lane utilising the road that previously served the WWTW. This connects onto Mill Carr Hill Road, which rises to join Bradford Road. Turning left onto Bradford Road then provides a connection to Junction 26 of the M62.

The surrounding area is broadly residential in character. The site is positioned between the Oakenshaw to the north and Cleckheaton to the south. The village of Oakenshaw is broadly to the north-west of the site and includes dwellings along Bradford Road, to the west of the M606. There are further residential properties to the north-east and north-west of the site along Cliff Hollins Lane (which are closest to the site) and Mill Carr Hill Road. The Woodlands C of E Primary School lies at the bottom of Mill Carr Road, close to the junction with Cliff Hollins Lane.

Outline planning permission for the re-development of the site to provide employment uses (Use Classes B1(c), B2 and B8)) was issued on 25 October 2018 following its approval at Strategic Planning Committee on 8 March 2018. This was subject to a non-material amendment in 2020 (2020/91436) to modify the wording of some of the conditions to reflect a phased approach to development.

It is the intention that the site be developed in 5 phases:

- Phase 0: Demolition of the waste water treatment structures

- Phase 1: Construction of the access road and the formation of plateaued, remediated and serviced development plots.
 - Approved in accordance with Reserved Matters application 2020/91488 on 15 October 2020
- Phase 2: Building phase
 - Approved via 2020/91807 – a single warehouse extending to 21,882m² of commercial floorspace (GFA) (approximately 19,984m² GIA).
- Phase 3: Building phase
 - No application submitted to date.
- Phase 4: Building phase
 - This application relates to phase 4.

Phase 0 is finished, and Phase 1 is also nearing completion on site.

Description of Proposal

This application relates to a portion of the overall site with an area of 3.42ha. Two units are proposed:

- Unit 1: 5575 sq.m (60,000 sq. ft) unit plus 448 sq.m (4,820 sq. ft) of first floor office accommodation. 60 parking spaces.
- Unit 2: 3716 sq.m (40,000 sq. ft) unit plus 330 sq.m (3,560 sq. ft) of first floor office accommodation. 40 parking spaces.

Each would have rectangular footprint and a double vault roof (15m to ridge). They'd appear as typical modern industrial buildings, faced in grey cladding (lower portions smooth, upper parts trapezoidal profile) with blue brick underbuild / feature areas. Pedestrian entrances would have feature glazing panels, with windows proposed at ground and first floor around each unit.

The units would be accessed off the previously approved central spine road. Each would have a service yard and vehicle docks. The buildings would be located roughly centrally within the plot, parallel to one another, with planting each unit to the front, side, and rear. Each unit's curtilage would be defined by a 2.4m high paladin style fence (colour black).

The proposal also seeks to discharge the following conditions pursuant to 2016/92298 (as modified by the NMA) only as they relate to Phase 4:

- Condition 6 (BEMP)
- Condition 17 (Site investigations)
- Condition 29 (Noise attenuation)
- Condition 31 (Electric vehicle charging points)

These are detailed in the assessment section below.

It is also noted that a range of other matters, including drainage, are still subject to conditions on the outline permission and will be (or have been, as per the below Planning History) dealt with via separate discharge of condition applications.

Relevant Planning History

Application Site

2016/92298: Outline application for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) – S106 Outline Approved

2020/91436: Non material amendment to previous permission 2016/92298 for outline application for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) – NMA Approved

2020/91488: Reserved matters application pursuant to outline permission 2016/92298 outline application for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) (Phase 1) to include the discharge of Conditions 6 (BEMP), 17 (Site investigations), 18 (Tree Survey), 29 (Noise attenuation) and 31 (Electric vehicle charging points) – RM Approved

2020/91807: Reserved matters application pursuant to Phase 2 of outline permission no. 2016/92298 (as amended by NMA 2020/91436) for the re-development of the former waste water treatment works following demolition of existing structures to provide employment uses (Use classes B1(c), B2 and B8) to include the discharge of Condition 6 (BEMP), Condition 9 (Lighting design strategy), Condition 17 (Site investigations), Condition 29 (Noise attenuation) and Condition 31 (Electric vehicle charging points) of 2016/92298 as they relate to Phase 2 – RM Approved

2021/90893: Variation of Conditions 1, 2 and 4 on previous permission 2020/91807 for Reserved Matters Application pursuant to Phase 2 of Outline Permission 2016/92298 (as amended by NMA 2020/91436) for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (B1(C), B2 and B8) to allow for minor changes to the shape of the building to address the correct positioning of existing overhead power cables – Removal / Variation approved

2021/91901: Non material amendment to Condition 20 of previous permission 2016/92298 for outline application for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) to enable the construction of Phase 2 – NMA Approved

2021/94060: Variation condition 32 on previous permission 2016/92298 for outline application for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) – Pending consideration

Discharge of condition applications

2019/93679 Discharge of condition 16 (site investigation) of previous outline permission ref: 2016/92298 – DOC Approved

2019/93727: Discharge of condition 7 (Construction Ecology Management Plan) of previous outline permission ref: 2016/92298 – DOC Approved

2020/91468: Discharge of Condition 5 (Phasing Plan), Condition 11 (Sewer Overflow), Condition 13 (Foul Water Drainage), Condition 14 (Discharge of Surface Water), Condition 23 (Flood Risk) and Condition 24 (Disposal of Surface Water) on previous permission 2016/92298 (Phase 1) – DOC Approved

2020/92342: Discharge of Condition 8 (Construction Environment Management Plan (demolition and enabling works) (Phase 1) of previous permission 2016/92298 – DOC Approved

2020/91398: Discharge of condition 16 (Phase 2) of previous permission 2016/92298 for outline application for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) – DOC approved

2020/91808 Discharge conditions 16 and 25 on previous permission 2016/92298 for outline application for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) (Phase 2) – Pending Consideration

2020/91889 Discharge of Condition 20 (Highway Works) on previous permission 2016/92298 – Pending Consideration

2020/92345: Discharge of Condition 26 (surface water) (Phase 1) of previous permission 2016/92298 – DOC Approved

2020/93650: Discharge of Condition 3 (access road). Condition 4 (internal estate road) and Condition 5 (landscape works) of previous permission no. 2020/91488 for reserved matters application pursuant to application no. 2016/92298 – Pending Consideration

2021/92106: Discharge of conditions 8 (construction environment management plan) and 26 (surface water disposal) of previous outline permission 2016/92298 for redevelopment of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) – Pending Consideration

2021/92798: Discharge of conditions 8 (Construction Environment Management Plan) and 26 (Surface Water) on previous permission 2016/92298 outline application for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) – Pending Consideration

Enforcement

A Temporary Stop Notice (TSN) was served on the site on 10th July 2020. It was issued because of construction works pursuant to Phase 1 having commenced without the relevant pre-commencement conditions having been discharged. The works that had started were principally deemed to have caused harm to residential amenity because of the stockpiling of material on the boundary of the site near to residential properties. The TSN required the applicant to cease all construction works pursuant to 2016/92298, including demolition, excavation & engineering works. It took effect on 10 July 2020 and ceased to have effect on 7 August 2020. The applicant complied with the terms of the TSN.

Surrounding Area

land west of M62

2021/92603: Erection of storage and distribution unit (Use Class B8) with ancillary offices, car parking, servicing, landscaping and access – Pending consideration

History of Negotiations

Officers sought clarification on several point, including regarding the parking arrangements and sustainability measures. Adequate information was provided and allowed a positive assessment, subject to the imposition of conditions.

Representations

Final publicity date expired: 17.06.2021

One public representation was received. The following is a summary of the comments made:

- Cars associated with the development are parking on streets, causing issues for local residents. Double yellow lines should be put in place.

Consultation Responses

Statutory

K.C. Highways: Expressed initial concerns. These were addressed via amended plans. No objection subject to condition.

The Environment Agency: No response received.

Bradford MDC: No objection.

The Coal Authority: No objection*

Northern Gas Network: No objection*

*Initial concerns were expressed from these parties. However, each were subsequently identified as being based on erroneous concerns.

Non-Statutory

K.C. Ecology and K.C. Landscape: No objection subject to removal of one potentially invasive species listed on the planting schedule. This has been done.

Planning Policy

Kirklees Local Plan (KLP)

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 27th February 2019).

The site is an Employment Allocation (ES7) on the LP Policies Map. The following policies within the Plan are most relevant to the determination of this application:

- **LP1** – Presumption in favour of sustainable development
- **LP21** –Highways and Access
- **LP24** –Design Policy
- **LP28** – Drainage
- **LP30** –Biodiversity and Geodiversity
- **LP32** –Landscape
- **LP33** –Trees
- **LP52** –Protection and improvement of environmental quality
- **LP53** –Contaminated and unstable land
- **LP64** – Employment allocations

The following are relevant Supplementary Planning Documents or other guidance documents published by, or with, Kirklees Council.

Supplementary Planning Documents

- Highways Design Guide SPD (2019)

Guidance documents

- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Waste Management Design Guide for New Developments (2020)

National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) 2021, published 20th July 2021, and the Planning Practice Guidance Suite (PPGS), first launched 6th 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 4** – Decision-making
- **Chapter 6** – Building a strong, competitive economy
- **Chapter 9** – Promoting sustainable transport
- **Chapter 11** – Making effective use of land
- **Chapter 12** – Achieving well-designed places
- **Chapter 14** – Meeting the challenge of climate change, flooding and coastal change
- **Chapter 15** – Conserving and enhancing the natural environment

Other relevant national guidance and documents:

- MHCLG: National Design Guide (2021)

Assessment

This application seeks Reserved Matters approval for Phase 4 of the development of the former North Bierley Waste Water Treatment Works in accordance with the outline planning permission 2016/92298. 2016/92298 approved:

Outline application for re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8)

The outline planning permission was approved with all matters reserved. However, it established the maximum quantum of development deemed

acceptable on this site. The total floor space approved was 35,284m². Conditions limited the ratio between B1(c), B2 and B8 uses.

This extent of development formed the basis of the outline application and the foundation for the comprehensive range of supporting documents and the Environmental Impact Assessment that were submitted, assessed and approved as part of that permission. These included:

- a) Transport Assessment (TA);
- a) Air Quality Assessment;
- b) Flood Risk Assessment;
- c) Travel Plan;
- d) Phase II Geo-Enviro Site Investigation;
- e) Noise and Vibration Report; g) Details of Highways Mitigation Work;
- f) Road Safety Audit (Bradford Road Arm of M62 Junction 26 Roundabout, Mill Carr Hill / Bradford Road Junction mitigation and Mill Carr Hill Road/Cliff Hollins Junction).

The outline planning permission has therefore already established the following:

- The principle of employment development on this site within Use Classes B1(c), B2 and B8 to a maximum of 35,284m². Condition 32 states that the B2 Use within the site shall not exceed 75.8% of the maximum 35,284m² floor space to be created (27,745 m²) and the development overall will need to remain compliant with that development over the course of the development of the site. That is a matter for the applicant.
- An acceptance of the impacts of the development up to 35,284m² with regard to matters such as air quality, noise, traffic impact and ecology. Such matters are further controlled by means of planning conditions on the outline permission and within the S106 agreement.
- The principle of the site access as indicated within this application to include an amendment to the priority of Cliff Hollins Lane at the site access so that the development traffic has right of way.

This application seeks approval for the reserved matters of access, appearance, scale, landscaping and layout as it relates to Phase 4. The proposal includes the construction of two commercial units positioned within the site's the north-west. Unit 1 has a gross floor area (GFA) of approximately 6021sqm. Unit 2 has a GFA of approximately 4046sqm. This is a total of 10,067sqm.

Phase 2 of the development has been previously approved via application 2020/91807. Phase 2 extended to 21,882sqm. Phase 2 and 4 therefore combined to 31,949sqm and are still below the maximum allowance of the parent outline application 2016/92298.

It is acknowledged that this leaves limited remaining floorspace for 'phase 3' (circa 3000sqm). However, this is a matter for the applicant and beyond the

remit of this application. Separately, it is noted that a S73 Variation of Condition application to the parent outline permission (ref. 2021/94060) has been submitted to increase the maximum floorspace allowance. However, this is pending consideration and does not preclude the determination of this application.

To summarise, this application is a Reserved Matters submission to, in effect, discharge Conditions 1-3 of 2016/92998. The considerations relate to matters of access, appearance, scale, landscaping and layout for Phase 4 only and the discharge of the conditions set out above. This Reserved Matters development is in accordance with Site Allocation ES7 and the outline permission; consequently, it is acceptable in principle.

The Reserved Matters

Access

The Development Management Procedure Order 2015 defines 'Access' as:

'Access' – the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network.

The construction of the means of access into the site and the details of the estate road was approved in accordance with the Reserved Matters application pursuant to Phase 1 (2020/91488). The accesses into Phase 4 (for both unit 1 and 2, and their service yards) would be taken directly from this estate road. The plans indicate that the required visibility splays of 2.4m x 43m are achievable from the new accesses.

In terms of pedestrians and cyclists, the main estate road would make provisions for a footway on both sides up to the site access. Covered cycle parking is also proposed within the site in the form of hoops and shelter; 12 for unit 1, 8 for unit 2. Within the building, shower facilities are incorporated to encourage travel to work by means other than the private car.

In terms of how this development would fit into the surrounding access network, as detailed above, the highway impact of the proposal was assessed and determined at outline stage. At that point, the impacts of the scheme for a development up to 35,284m² floorspace were approved. This included the highway impact of the proposal and necessitated the requirement for the offsite highway works detailed above, which will have to be completed prior to the first occupation of any unit on the site.

On the basis that this Phase 4 scheme falls within the maximum floorspace approved under the outline permission, its impact on the surrounding access network is considered acceptable. The proposal would therefore comply with the requirements of Policy LP21 and guidance with the Framework.

Appearance, Layout, and Scale

The Development Management Procedure Order 2015 defines Appearance, Layout and Scale as:

- *'Appearance' – the aspects of a building or place within the development which determine the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture.*
- *'Layout' – the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development.*
- *'Scale' – the height, width and length of each building proposed within the development in relation to its surroundings.*

The appearance of the buildings is typical for contemporary industrial units and would not appear out of place alongside the appearance of the approved 'phase 1' building. They would be constructed in a modern cladding system in shades of grey. Grey is considered to be preferable to green on the grounds that green cladding does not necessarily sit comfortably within the natural landscape. Instead, being an artificial green colour set against a natural green, it can contrast with it and be more visible as a result. Typically, when viewed from a distance, the colour finish should be of a tonality that is equal to, or a degree darker than, the dominant background tonality to avoid any adverse visual effects arising from contrast and reflection. A dark grey can therefore be effective in reducing the impact of the building on the surrounding area in terms of visual dominance. Samples are to be secured via condition, to ensure suitable end products are used. The introduction of glazing details, and small areas of brick, to the front elevation and around the edges of the building is particularly welcomed as it would add an appropriate level of visual interest. Overall, whilst functional, the appearance of the Phase 2 building is appropriate to its use and would deliver a sufficiently high quality of design fitting to its context.

In terms of scale, the footprint of units 1 and 2 is well below that approved by phase 1. Smaller and larger E(g)/B2/B8 units alongside each other is not unusual, and the pattern that is developing is archetypal for a modern industrial estate. In terms of height, the units would each have a parapet height of 13.8m, with the main roof having a ridge of 15m. The parapet design and double vaulted roof would keep the height and massing to a minimum, despite the buildings' size. Furthermore, unit 1 would be on a ground level circa 10m below that of the neighbouring M606, and unit 2 circa 5.5m. These ground levels would reduce the prominence of the buildings when viewed from the west. Despite their size, given the substantial size of the site (more than 20 hectares) the units would sit comfortably and within this context, their scale would be appropriate.

The layout of the site is characteristic of an employment allocation. Both unit 1 and 2 comprise a large structure with a parking area to the front and service bay to their side. The layout is consistent with the approved use of the site,

that approved at phase 1, and considered to be acceptable as a result. In terms of the wider site, the development is set away from the outline's boundary lines, being roughly central to the site.

The site has a high-pressure gas pipeline running through it. Northern Gas offered an initial holding objection to the proposal, due to the siting close to the pipeline. However, the applicant has been in discussions with other departments within Northern Gas and appropriate agreements had been previously made. When drawn to the attention of Northern Gas' planning team, their objection was withdrawn.

Taking all these matters into account, the layout, scale and appearance of the building would represent a sufficiently good design to accord with the principles of Policy LP24 of the Kirklees Local Plan and guidance within the NPPF.

Landscaping

The Development Management Procedure Order 2015 defines Landscaping as;

- 'Landscaping' – the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes: (a) screening by fences, walls or other means; (b) the planting of trees, hedges, shrubs or grass; (c) the formation of banks, terraces or other earthworks; (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and (e) the provision of other amenity features;

Landscaping is to consist of a mixture of low-level planting (wildflower / grass), hedging and trees encircling the site. This would have the dual benefit of adding attractive planting to the area while reducing the prominence of the buildings (and associated parking etc). This includes a modest strip of planting along the site's frontage to the new estate road, creating an attractive entrance. It is considered that the planting scheme would deliver a meaningful level of new native planting that would serve to soften the appearance of the development within the landscape. It would also screen the car park in longer views of the site from the residential areas to the north and west and significantly enhance the existing planting levels on site.

Initial concerns were expressed by K.C. Ecology and Landscaping, due to the inclusion of potentially invasive species in the planting schedule. This was amended, with an appropriate native species replacement.

The application also includes the provision of a boundary treatment plan. A 2.4m high balance fence (black) would surround each site, including along the frontage. Such fencing is typical for industrial buildings such as that proposed, and the scale would be appropriate for the context. The fencing along the

frontage would be behind the landscaping, making it less prominent from the street.

The proposed landscaping scheme and boundary treatment are acceptable to meet the requirements of Policy LP32. The permission will be subject to a condition that the landscape scheme be implemented in accordance with the plan prior to first occupation of the development, or within the first planting season following first occupation. A landscape management plan has been given and is deemed appropriate: compliance with this will also be secured via condition.

Reserved Matters Summary

The proposals submitted for Phase 2 regarding matters of access, layout, appearance, scale and landscaping comply with the outline permission and for the reasons set out above, are considered to comply with relevant policies within the Kirklees Local Plan and guidance within the NPPF. These reserved matters are therefore considered acceptable for this phase of development.

Other Matters

Living Conditions of adjoining occupiers

Policy LP24 (b) of the KLP advises that proposals should provide a high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings.

In this case, the proposed use of the Phase 4 building within Classes B1c/B2/B8 and the extent of development (and associated impacts, including highway/air quality) is wholly consistent with the principles established by the outline planning permission. This assessment is limited to considering the submitted details in the context of the Reserved Matters.

Unit 1 would be closer to neighbouring 3rd party dwellings than unit 2. Unit 1 is 340m away from the dwellings to the north (on Cliff Hollins Lane) and 240m from those fronting Bradford Road to the west. As noted previously, unit 1 would also be set below the neighbouring land level and the M606 acts as a notable physical barrier to the west. Considering the separation distances and the site circumstances, officers are satisfied that the building would not result in harmful overbearing, overshadowing or overlooking upon future residents. This applies to unit 2, which is further away from 3rd parties and smaller than unit 1.

Matters of noise, air pollution etc. were considered at outline stage and address via condition. These factors, while relevant to amenity, do not fall to be considered as part of the Reserved matters.

For these reasons, it is considered that this Phase 2 development will not be harmful to the living conditions of existing occupiers. On this basis, the application is considered to comply with Policy LP24 (b) of the KLP.

Flood Risk and Drainage

Guidance with the NPPF advises at Paragraph 163 that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. This approach is reinforced in Policy LP27 of the KLP, which confirms, amongst other matters, that proposals must be supported by an appropriate site-specific Flood Risk Assessment (FRA) in line with National Planning Policy. Policy LP28 of the KLP relates to drainage and notes a presumption for Sustainable Drainage Systems (SuDs) and, that development will only be permitted if it can be demonstrated that the water supply and waste water infrastructure required is available or can be coordinated to meet the demand generated by the new development.

In this case, this application is a Reserved Matters submission pursuant to Phase 4. As a result, it is effectively a discharge of Conditions 1-3 of the outline permission (in addition to the other discharge of condition applications that the applicant has applied for). Consequently, regarding drainage matters, Phase 4 is still subject to the drainage conditions imposed on the outline planning permission. These include Conditions 14 (piped discharge of surface water), 23 (residential uncertainty) and 24 (discharge rates) as they relate to Phase 2. These will have to be applied for separately to ensure compliance with the outline.

Regarding Flood Risk, Condition 15 of the outline permission requires that the development be carried out in accordance with the mitigation measures contained within the approved Flood Risk Assessment. That is a stand-alone condition to which Phase 4 will also need to comply independent of this application.

Climate Change

The outline planning permission, to which this RM application relates, predates the Council's declaration of a climate change emergency in 2019 and the target of achieving "net zero" carbon emissions by 2038. Nevertheless, the applicant has applied to discharge Condition 31 of the outline planning permission, which requires details of on-site, low emission mitigation strategies and electric charging points, which is considered below.

As part of this, it is noted that the applicant intends to construct the building to achieve a BREEAM rating of 'Very Good'. This includes a consideration of matters such as sustainable procurement, energy performance, visual comfort (daylighting/views), ventilation, energy monitoring, water consumption and travel measures. Whilst this BREEAM rating does not specifically include any requirements in relation to low or zero carbon technologies (limited to buildings that seek to achieve a rating of excellent or outstanding), it does at

least demonstrate a commitment to considering the environmental impact of the building and addressing it as far as practicable for a building of this type.

The building is also designed to host solar panels, allowing their simple installation should they become optimal.

It is also noted that the proposal includes the provision of electric vehicle charging points and extensive tree planting. In combination, these elements will serve to make some positive contribution to the building's impact on climate change.

Discharge of Conditions

Approval is also sought to discharge four conditions pursuant to the outline planning permission. The assessment of these conditions is detailed below:

Condition 6 (Bio-diversity Enhancement Management Plan)

Detailed plans and particulars of the Reserved Matters for the first phase of development shall include a Biodiversity Enhancement and Management Plan (BEMP) for the entire site. The content of the BEMP shall include the following:

- a) Description and evaluation of the features to be managed.*
- a) Ecological trends and constraints on site that might influence management.*
- b) Aims and objectives of management.*
- c) Appropriate management options for achieving aims and objectives.*
- d) Prescriptions for management actions.*
- e) Details of initial aftercare and long-term maintenance;*
- f) Details of the body or organisation responsible for implementation of the plan.*
- g) Details for on-going monitoring and remedial measures.*

The approved plan and particulars shall be implemented in accordance with the approved details and timescales pre, during and post construction.

Reason: *In the interests of the biodiversity of the area and to accord with Policy EP11 of the Kirklees Unitary Development Plan, PLP30 of the Publication Draft Local Plan and guidance within chapter 15 of the National Planning Policy Framework. This is a pre-commencement condition in order to ensure that adequate mitigation and enhancement measures are incorporated into the development at the appropriate stage of the development.*

The applicant has submitted the Biodiversity Enhancement Management Plan ref. ER-4003-03 to discharge Condition 6. This has been reviewed by K.C. Ecology.

K.C. Ecology consider the submitted information to be acceptable. The submitted BEMP is consistent with the BEMP submitted to discharge Condition 6 during the Phase 1 RM application.

Condition 6 can therefore be discharged for Phase 4 subject to advice that to secure full compliance with Condition 6 the development shall be implemented in accordance with the approved plan and particulars and in accordance with the approved details and timescales pre, during and post construction as set out in the BEMP (ER-4003-03) prepared by Brooks Ecological dated April 2021 (pursuant to this phase only).

Condition 17 (Site Investigations)

Detailed plans and particulars of the reserved matter (layout & landscape) for each phase pursuant to conditions nos. 1, 2 and 5 above shall include:

- a) A report of the findings following intrusive site investigations carried out in relation to condition no. 16,*
- a) The results of any gas monitoring undertaken,*
- b) A layout plan which identifies appropriate zones of influence for the recorded mine entries on site and the definition of suitable 'no build' zones,*
- c) A scheme of treatment for the recorded mine entries for approval;*
- d) A scheme of remedial works for the shallow coal workings for approval,*
- e) Details and how d) and e) above are to be undertaken, and*
- f) Written verification that the remediation works shall be carried out in accordance with the approved details.*

Thereafter the development of each phase shall be carried out in accordance with the approved details. Prior to the first use of each phase of the approved development, written confirmation shall be submitted to the Local Planning Authority, verifying the works have been fully completed in accordance with the approved details.

Reason: *In the interest of health and safety. This is a pre commencement condition to ensure any pollution/risk identified is dealt with appropriately, to ensure the users of the new development are protected from being put at unacceptable risk and to accord with Policies D2 and G6 of the Kirklees Unitary Development Plan, PLP52 and 53 of the publication Draft Local Plan as well as guidance in the National Planning Policy Framework*

This condition was requested by The Coal Authority. The Coal Authority expressed an initial objection. A Phase 2 Ground Investigation report had been submitted as part of this application to attempt to address this condition. However, the document related to 'Phase 2' of the development. As this is 'Phase 4' of the build out, the CA assumed this report was incorrect.

Clarification was sought from the applicant, and they elaborated. While the development build out had been split into 5 phases (Phase 0 through to Phase 4), the ground investigations had subdivided the site in half, having Phase 1 and Phase 2, with the terminology leading to the confusion. This site falls within Phase 1 for the purposes of the ground investigation reports.

Subsection a) of condition 17 stipulates 'A report of the findings following intrusive site investigations carried out in relation to Condition no. 16' should be submitted. Condition 16 was part discharged, for the ground investigation 'phase 1', via 2019/93679. In this DOC application it was concluded that:

"The Coal Mining Risk Assessment submitted identifies that within Phase 1 [for ground investigation purposes] as defined, there are no risks arising from past coal mining activity and no further works are required in this area.

Accordingly, the requirements of Condition 17 do not trigger for this phase, and the proposed development is deemed to have adhered to Condition 17 in so far as it relates to phase 4 (of the build schedule) only.

Condition 19 (Public Rights of Way)

19. Detailed plans and particulars of the reserved matters (layout & landscape) pursuant to conditions nos. 1 and 2 above shall include details for the treatment and enhancement of existing public right of way no. SPE/21/20, crossing the site. No part of the development shall be brought into use until the approved works comprising the approved scheme have been completed.

Reason: *For the convenience of all those using the public right of way and to accord with Policy R13 of the Kirklees Unitary Development Plan, Policies PLP23 And 31 of the Publication Draft Local Plan and guidance within the National Planning Policy Framework.*

This condition was requested by K.C. PROW and K.C. Highways on the outline application. Discussions are ongoing between the applicant and these groups about the PROW and the required works as they relate to the earlier phases of development on this site. However, the PROW does not enter the red line boundary of this application such that no details can be provided in relation to Phase 4. Furthermore, Condition 19 states that no part of the development shall be brought into use until the PROW scheme has been completed. Consequently, approving this RM for Phase 4 does not preclude the requirement for Condition 19 to be addressed.

Accordingly, Condition 19 is adhered to in relation to Phase 4 and may be discharged (pursuant to this phase only).

Condition 29 (Noise Attenuation)

Detailed plans and particulars for each phase of the reserved matters (layout & landscape) pursuant to condition nos. 1, 2 and 5 above, shall demonstrate how proposals for that phase will achieve a level of 5dB

attenuation measures through the provision of screening and land features as predicted in Table 21 of the Noise & Vibration Report by AECOM, dated December 2017. Thereafter the development of each phase shall be completed in accordance with the approved details, before occupation of any building within each phase.

Reason: *In the interest of residential amenity of nearby residents and to accord with Policies EP4 of the Kirklees Unitary Development Plan, PLP52 of the Publication Draft Local Plan and guidance within the National Planning Policy Framework.*

This condition was requested by K.C. Environmental Health, who have provided the following assessment:

A Noise Impact Assessment has been submitted authored by Dragonfly Consulting dated 24 January 2020 Ref DC3229-R1. The report describes a noise survey of the site, the subsequent analysis to determine the noise environment of the proposed development and then compares the results with the adopted criteria.

Unit A is the larger of the two units to the west of the site, and Unit B is the smaller of the two units closest to the M606. The industrial units are set to be open 24 hours, this means that plant items and equipment could be operating on a 24- hour basis.

Two measurement locations were surveyed to establish the typical ambient and background noise levels at the proposed development site. The measurement locations are

- Location 1 – Bradford road near NSR1*
- Location 2 – Cliff Hollins Lane near NSR2*

To establish typical external ambient and background noise levels at the site, daytime and night-time measurements were undertaken from 12th to 13th November 2019. A longer time period for the monitoring would have been preferred but the assessment meets with the criteria for BS4142 and so is accepted. The findings are summarised in table 4.1 and the noise environment at both locations is characterised as being predominantly road traffic travelling along the M606 and wider road network including the M62.

Para 5.1 assesses the noise from the fixed plant based upon the measured background noise levels. The report states that as there is currently insufficient detail available as to the type, size and exact location of the fixed plant, it is not considered possible to accurately apply character corrections to the specific level in order to calculate a rating level at the nearest noise sensitive receptors (NSRs). As it is considered that plant will be operating from two separate sources (Unit 1 and Unit 2), a 3dB correction has been applied to ensure that noise from both sources does not generate a combined level greater than 5dB below the lowest background level.

The nearest NSRs and their respective distances from the proposed site boundary are shown in Table 5.1 and corrections applied due to the distance. Tables 5.2 to 5.9 show the adopted noise level criterion of 5dB below the background noise level, with the 3dB correction. They show that using the adopted criteria for any plant items in operation at Units A and B both during the daytime and night-time periods, the respective plant levels would meet the criteria set out in Condition 28.

Noise modelling shows the effect of the proposal with the existing topography and table 5.10 provides a comparison between the resultant noise levels at each receptor, based on a nominal sound power level of 105dB L_{WA}. It is therefore considered that the topography of the existing site provides a suitable amount of attenuation to satisfy the requirements of Condition 29 without the need for further mitigation measures to be implemented.

The assessment shows that using the adopted criteria for any plant items in operation at Units A and B during the daytime period (0700hrs to 2300hrs), a maximum plant level of 94.9dB(A) would meet the criteria set out in Condition 28. The assessment shows that using the adopted criteria for any plant items in operation at Units A and B during the night-time period (2300hrs to 0700hrs), a maximum plant level of 85.7dB(A) would meet the criteria set out in Condition 28.

The findings of the report are accepted.

Officers support the assessment by K.C. Environmental Health and recommend that Condition 29 may be discharged (pursuant to this phase only).

Condition 31 (Low Emission Strategies and Electric Vehicle Charging Points)

Detailed Plans and particulars of the Reserved Matters (layout and landscape) for each phase pursuant to condition nos. 1, 2 and 5 shall include:

- On site, low emission mitigation strategies, and*
- Details of electric charging points which shall be installed on the basis of 1 charging point per 10 spaces.*

Thereafter, each phase of the development shall be completed in accordance with the approved details/mitigation strategies, before occupation/use of any building on site within that phase.

Reason: *To offset and mitigate the impact from the development, equivalent to the identified damage costs and to accord with the guidance contained in Chapter 9 and Chapter 15 of the National Planning Policy Framework, the West Yorkshire Low Emissions Strategy and Policies PLP 24 and PLP21 of the Kirklees Publication Draft Local Plan.*

The applicant initially proposed 6 electric vehicle charging points. This was considered insufficient, falling below the 1 in 10 expectations (100 parking spaces are proposed). Following discussions, the applicant has agreed to increase the number of EVCP's to 10, which is welcomed. In terms of the type of EVPC, a document with two styles has been given. Either of the styles is appropriate, therefore officers are supportive of both and leave it to applicant choice which is preferred. This approach is supported by K.C. Environmental Health.

On the matter of low emission, the applicant has stated:

I can confirm the building will meet BREEAM Very Good – this is a requirement of the funder to the applicant and written into the development agreement and included in the contract particulars that will be appended to the build contract. On that basis, it is a guarantee to be delivered to the Very Good standard.

Likewise in respect of the EPC Assessor. All M&E is to be of low emission nature to ensure they hit the strict EPC target required by the funders.

Furthermore, the building is also structurally future proofed to allow for a retrospective installation of solar without any improvements to the roof or steel work.

These criteria are welcomed and deemed sufficient to discharge Condition 31 (pursuant to this phase only).

Representations

- Cars associated with the development are parking on streets, causing issues for local residents. Double yellow lines should be put in place.

Response: Given that the site is not currently operational, but adjacent phases are being constructed, this is assumed to be contractor's parking. For the purposes of this development, officers and K.C. Highways are satisfied that the proposed development would have sufficient parking for the intended operation.

Conclusion

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.

The principle of development has been established by outline app 2016/92298. This proposed Reserved Matters would need to comply with the description of development and conditions imposed by 2016/92298. In this case, for the reasons set out in this report, the details, of access, appearance,

layout, scale and landscaping (the Reserved Matters), are deemed acceptable for this phase and comply with the policies of the KLP.

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.

Recommendation: Approve

Application Number: 2021/91932

Decision Authorisation: Delegated Powers

Officer Recommendation: Approve Reserved Matters

CONDITIONS AND REASONS

1. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion.

2. The development shall not be occupied until the approved cycle parking facilities have been provided in accordance with plan ref. '2115 PL 108 Rev. A'. The facilities shall thereafter be retained.

Reason: To encourage sustainable travel by means other than the private car.

3. No above ground building works shall take place until samples (manufacturing details) of all external cladding and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall then be constructed from the approved materials.

Reason: To ensure good design and in the interests of visual amenity

4. The landscape scheme shall be implemented in accordance with landscape plans ref. '823/LA1' and '823/LA2 rev. A' and the supporting documents 'Soft Landscape Specification' and 'Planting Schedule', prior to first occupation of the development, or within the first planting season following first occupation. If within a period of five years from the date of the planting of any tree/hedge/shrub that tree/hedge/shrub, or any replacement, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree/hedge/shrub of the same species and size as that originally planted shall be planted in the same location as soon as reasonably possible and no later than the first available planting season, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure an appropriate and healthy landscape scheme in the interests of visual amenity and biodiversity.

5. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development. The landscape management plan shall be implemented in accordance with these approved details.

Reason: To ensure the successful aftercare of the landscaping.

6. The boundary fence to the site frontage shall be implemented as shown on approved plans ref. '2115 PL 104 Rev. B' and '2115 PL 105 Rev. B', to be set

back to the rear of the proposed visibility splays and shall, at all times, be cleared of all obstructions to visibility.

Reason: To ensure adequate visibility in the interests of highway safety.

DISCHARGE OF CONDITIONS

Condition 6 (Bio-diversity Enhancement Management Plan)

You have submitted the Biodiversity Enhancement Management Plan by Brooks Ecological, ref. 'ER-4003-03' to discharge condition 6.

I can confirm that the submitted details are acceptable and Condition 6 is discharged, in so far as it relates to Phase 4 only. Please note that Condition 6 has the following ongoing requirement to secure full compliance:

'The approved plan and particulars shall be implemented in accordance with the approved details and timescales pre, during and post construction.'

Condition 17 (Site Investigations)

This condition was requested by The Coal Authority. The Coal Authority expressed an initial objection. A Phase 2 Ground Investigation report had been submitted as part of this application to attempt to address this condition. However, the document related to 'Phase 2' of the development. As this is 'Phase 4' of the build out, the CA assumed this report was incorrect.

Clarification was sought from the applicant, and they elaborated. While the development build out had been split into 5 phases (Phase 0 through to Phase 4), the ground investigations had subdivided the site in half, having Phase 1 and Phase 2, with the terminology leading to the confusion. This site falls within Phase 1 for the purposes of the ground investigation reports.

Subsection a) of condition 17 stipulates 'A report of the findings following intrusive site investigations carried out in relation to Condition no. 16' should be submitted. Condition 16 was part discharged, for the ground investigation 'phase 1', via 2019/93679. In this DOC application it was concluded that:

"The Coal Mining Risk Assessment submitted identifies that within Phase 1 [for ground investigation purposes] as defined, there are no risks arising from past coal mining activity and no further works are required in this area.

Accordingly, the requirements of Condition 17 do not trigger for this phase, and the proposed development is deemed to have adhered to Condition 17 in so far as it relates to phase 4 (of the build schedule) only.

Condition 19 (Public Rights of Way)

The Public Right of Way does not fall within the boundary of this phase of development.

Condition 19 is deemed part discharged, in so far as it relates to phase 4 of the development.

Condition 29 (Noise Attenuation)

You have submitted the Noise Impact Assessment document 'Dragonfly Consulting dated 24 January 2020 ref. DC3229-R1' to discharge Condition 29, in so far as it relates to phase 4 of the development.

I can confirm that the submitted details are acceptable and Condition 29 is discharged for phase 4 of the development. However, please note that Condition 29 has the following ongoing requirement to secure full compliance:

Thereafter the development of each phase shall be completed in accordance with the approved details, before occupation of any building within each phase.

Condition 31 (Low Emission Strategies and Electric Vehicle Charging Points)

You have submitted the following information to discharge Condition 31:

- Plan ref. '2115 PL 108 Rev. A'
- Pod Point Twin Datasheet (Models T7-S and T22-S)
- Email dated 10.11.2021 on Low Emission Strategies
- Email dated 11.11.2021 regarding number of charging points (10)

I can confirm that the submitted information, read as a whole and specifically through the provision of no less than 10no. Electric Vehicle Charging Points, is sufficient to discharge Condition 31 in so far as it relates to phase 4 only. However, please note that Condition 31 has the following ongoing requirement to secure full compliance:

Thereafter, each phase of the development shall be completed in accordance with the approved details/mitigation strategies, before occupation/use of any building on site within that phase.

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Plan General	2115 PL 100		10.05.2021
Plan General	2115 PL 102		10.05.2021
Block Plan	2115 PL 103	Rev. B	17.08.2021
Block Plan	2115 PL 104	Rev. B	17.08.2021
Block Plan	2115 PL 105	Rev. B	17.08.2021
Plan General	2115 PL 106		10.05.2021
Plan General	2115 PL 107		10.05.2021
Block Plan	2115 PL 108	Rev. A	17.08.2021
Plan General	2115 PL 109		10.05.2021

Plan Type	Reference	Version	Date Received
Proposed Floor Plans	2115 PL 111	Rev. A	14.05.2021
Proposed Floor Plans	2115 PL 112	Rev. A	14.05.2021
Proposed Elevations	2115 PL 113	Rev. A	14.05.2021
Proposed Elevations	2115 PL 114	Rev. A	14.05.2021
Plan General	2115 PL 115	Rev. A	14.05.2021
Proposed Elevations	2115 PL 117	Rev. A	14.05.2021
Proposed Elevations	2115 PL 118	Rev. A	14.05.2021
Proposed Elevations	2115 PL 119	Rev. A	14.05.2021
Proposed Elevations	2115 PL 120	Rev. A	14.05.2021
Plan General	2115 PL 121	Rev. A	14.05.2021
Plan General	2115 PL 123	Rev. A	14.05.2021
Plan General	823_LA1		10.05.2021
Block Plan	078796-CUR-00-ZZ-DR-C-04001	Rev. P02	17.08.2021
Supporting Information	Planting Schedule		14.10.2021
Supporting Information	Soft Landscaping Specification		14.10.2021
Supporting Information	Landscape Plan and Bed Planting / 823/LA2 rev. A		14.10.2021
Supporting Information	Coal Mining Risk Assessment		13.10.2021
Supporting Information	Noise Assessment		12.10.2021
Supporting Information	Transport Assessment		17.08.2021
Supporting Information	Flow Design Report		18.05.2021
Supporting Information	Design and Access Statement		10.05.2021
Supporting Information	Pod-Point-Twin-datasheet		10.05.2021
Supporting Information	Biodiversity Enhancement Management Plan – ER-4003-03		10.05.2021

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Planning Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application.

Officers sought clarification on several point, including regarding the parking arrangements and sustainability measures. Adequate information was provided and allowed a positive assessment, subject to the imposition of conditions.

Report Dated: 11.11.2021

