

KIRKLEES METROPOLITAN COUNCIL

PLANNING SERVICE

UPDATE OF LIST OF PLANNING APPLICATIONS TO BE DECIDED BY

STRATEGIC PLANNING COMMITTEE

24 MARCH 2022

Planning Application 2021/92528

Item 9 – Page 9

Erection of retail development, associated parking, servicing areas and landscaping.

Land off, Bankwood Way, Birstall Retail Park, Birstall, Batley, WF17 9DT

Amended Recommendation

Delegate approval of the application to the Head of Development Management to:

- 1. secure the signing of a Section 106 Agreement to provide:**
 - i. £160,000 for a pedestrian improvement scheme on the neighbouring retail park which includes: - A signalised crossing on Gelderd Road - New and upgraded pedestrian crossing points within the immediate vicinity of the site**
 - ii. Travel Plan Monitoring fee (£10,000)**
 - iii. Off-site contribution towards biodiversity enhancement (£38,180)**
 - iv. Arrangements for the future maintenance and management of the surface water drainage infrastructure within the site**
- 2. Complete the list of conditions including those contained within this report and issue the decision notice.**

In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Strategic Investment shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Development and Master Planning is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

Reason

Further interpretation of the relevant planning regulations has led to officers to consider that the application would not need to be referred to the Secretary of State. The Town and Country Planning (Consultation) (England) Direction 2021 requires "development outside of town centres" to be referred to the Secretary of State in the circumstances whereby they are minded to not refuse an application.

The direction applies three criteria to what constitutes “development outside of town centres”. This consists of or includes retail, leisure or office use, and which:

(a) is to be carried out on land which is edge-of-centre, out-of-centre or out-of-town; and

(b) is not in accordance with one or more provisions of the development plan in force in relation to the area in which the development is to be carried out; and

(c) consists of or includes the provision of a building or buildings where the floor space to be created by the development is:

(i) 5,000 square metres or more; or

(ii) extensions or new development of 2,500 square metres or more which, when aggregated with existing floor space, would exceed 5,000 square metres.

All of these criteria need to be triggered, however in the case, whilst the proposal is triggered by (a) on the basis of being out of centre and (c) due to the amount of floorspace proposed it is not triggered by point (b) as the application is not contrary to policy LP8 (Safeguarding Employment Land and Premises) and is in accordance with the development plan.

Therefore, the recommendation is amended above to reflect the correct procedure.

Planning Application 2021/93645

Item 10 – Page 37

Installation of a new 3G synthetic turf pitch, upgraded and extended grass pitches, car-parking and additional landscape works

YMCA, Lawrence Batley Recreational Complex, New Hey Road, Salendine Nook, Huddersfield, HD3 3XF

Update in Respect of Revised Arboricultural Information

The applicant has submitted an Arboricultural Impact Assessment as well as an Arboricultural Method Statement on the 17th March 2022. These revised details were anticipated to be submitted in advance of the Committee Update, as set out within paragraph 10.26 of the Officer Report.

The new information indicates a significant uplift in the quantum of mature trees to be lost as a result of the development: 8 trees were originally cited for removal and this has since risen to 18 mature specimens with a further 10 trees being subject to pruning that could make them vulnerable to loss. Likewise, details in respect of sufficient replacement planting have not been forthcoming and the current landscaping details are presently considered insufficient to replace the increased number of specimens lost to the proposed development.

By consequence an objection to the revised tree loss has been lodged by the KC Trees Officer, who states the following:

It is necessary to understand when considering the AIA submitted that it has undervalued the tree groups on the site by categorising them as category B within the BS5837. Many of the trees form groups of high amenity value and should be considered category A, sub-category 2 for their landscape and amenity value.

As this tree information has been submitted at the eleventh hour I have not had the opportunity to revisit the site to consider the removal of the 18 trees and harm proposed by pruning to a further 10 trees. The previous level of tree loss was considered just about acceptable at 8 in total however this has drastically changed, and I do not accept the assertion that the proposals would have no significant effect on the tree groups or their public amenity value.

The justification that individuals within the groups of low quality should not be a constraint on development may be true where the impacts are small or restricted to a few trees in one location. The proposals however are for a large section to be opened up in the line of trees, Group G17, on the site's eastern boundary. This is considerably different to what was previously detailed on submitted plans and would significantly alter the group both from an amenity perspective and in terms of the risks explained within the AIA of damage from winds to retained trees. The proposed pruning to trees includes trees on the outside edge of the site where the hole is to be created further exacerbating the impact on the amenity value of the line of trees....

In addition, the mitigation planting proposed is to be planted near the northern corner of the proposed pitch and not in a location that would allow the trees to provide mitigation for the loss of trees. Given the larger scale of proposed tree removals, the proposals should have included replacement trees on the new banking in the same place as some of the trees lost...

I would reiterate my concerns from previous comments that the proposals have not attempted to minimise the impacts of the ground works through the use of retaining structures or by adjusting the design/location of the proposed to minimise tree impacts. The proposals do not meet the expectations of policies LP24 and LP33 of the Kirklees Local Plan and therefore I cannot support them. The mitigation proposed is another reason the proposals fail to meet the requirements of policy LP33 of the Kirklees Local Plan.

Given the above, it is proposed that conditions 17 and 18 relating to 'Submission of an Arboricultural Method Statement' and 'Submission of a Detailed Landscaping Scheme', both requiring submission and agreement of details prior to the protected trees' removal, are retained should a Committee decision favour the Officer recommendation of Approval Subject to Conditions. The intent of the 'Arboricultural Method Statement' condition is such that it is worded to ensure that the quantity of tree removal is justified through agreement with KC Trees with the expectation that arboricultural methods may be able to be implemented that could elicit the retention of some of the trees indicated to be lost. The 'Detailed Landscaping Scheme' condition is included in the recommendation to leverage improved

replacement planting over and above that which has currently been submitted by the applicant. The outlined conditions enable the recommended decision to Committee to be considered 'sound'.

Planning Application 2021/92486

Item 12 – Page 67

Erection of 5 buildings for a mixed use of educational, agricultural and community uses former Spenborough Wastewater Treatment Works

Smithies Lane, Heckmondwike, WF16 0PN

On Friday 18th March, the agent made a request to Officers for the application to be deferred. Following this, the agent wishes to submit the following statement to members to consider a deferral for the upcoming meeting:

'Having read through the committee report prepared in respect of the above planning application I note a reason for refusal has been included regarding ecology and Biodiversity Net Gain. Whilst I am mindful we have previously discussed green belt issues / principles, there has been no discussion on ecology or BNG. Indeed I note your (sic) email of 10 March advising of committee on 24th March where you advise that the application is to be refused on green belt grounds - as such it is disappointing to see a reason for refusal based on ecology without having previously been given the opportunity to provide additional information to address the issue.

As such I would respectfully request that the application is deferred from determination at strategic planning committee on 24 March 2022 so that my client and his advisors can address the ecology issue raised. Given the nature of the site and the extent of the red line we will look at the first instance in what can be achieved within the application site. I also note that the submitted site plan gives a clear indication of works proposed for the land formerly occupied by tanks / infrastructure which includes planting, wild-flower meadow and pond creation - all these matters would contribute to BNG and would be considered in the additional works undertaken.

In light of the above please could I respectfully request that the application be deferred from the 24 March Strategic Planning Committee so that we can address this matter with information required. This would seem to be a reasonable request given the indications set out on submitted plans and the fact that the issue has not been raised to date.'

In response to this Officers make the following comments:

Firstly, officers are keen to avoid any more delay with the determination of this retrospective planning application. The applicant withdrew previous applications 2021/90156, 2021/90599 and 2020/92608 for buildings that now make up this application. This has meant applications at this site, for the proposed use, have been ongoing for approximately 2 years. Throughout the entire planning history, Officers have raised concerns about the principle of development, primarily in relation to Green Belt matters. Despite these previous withdrawals, it should be noted that the applicant continued to erect further buildings causing more harm to the Green Belt whilst delaying the decision being made.

Secondly, whilst the Biodiversity Net Gain issue may not have been expressed directly under this application number, the applicant was made aware of the Biodiversity Net Gain requirement as part of the pre-application in 2019 and as part of application 2020/92608, the very first application on this site for the erection of the buildings. On the 26th November 2020, the KC Ecology consultation response stated the need for an Ecological Design Strategy (EDS). Furthermore, a Biodiversity Net Gain is a requirement of all planning applications as per paragraph 174 of the National Planning Policy Framework.

The proposed development, in the Officer's opinion, is unacceptable in regard to the principle of development. Given this, the ecology matter represents a secondary reason for refusal. To defer a decision on the application for a secondary reason is not in the Council's interest for the reasons set out previously.

If the application was refused by Members and the applicant chose to appeal the decision, the necessary ecological information could then be submitted as part of the applicant's appeal. If the ecological information submitted under the appeal was deemed satisfactory, the Authority would then withdraw from defending the ecology reason for refusal and revert back to defending the principle of development and design reasons for refusal only. Furthermore, if members deemed the principle of development to be acceptable and therefore approved the scheme, contrary to officer recommendation, then the necessary ecological information could then be secured via condition. Therefore, a deferral is not required, nor would it change the outcome and decision-making process.

For the reasons set out above, officers do not support the agent's request for deferral.
