Kirklees COUNCIL

Originator: Nick Hirst

Tel: 01484 221000

Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 20-Jun-2024

Subject: Planning Application 2022/91477 Hybrid Planning Application for the erection of an industrial unit for B2 /B8 use, with ancillary office space and associated access, parking, groundworks and landscaping in conjunction with an outline application for mixed use development use class E(b),B2 and B8, with ancillary office space and associated works Land off Lindley Moor Road, Lindley, Huddersfield, HD3 3SX

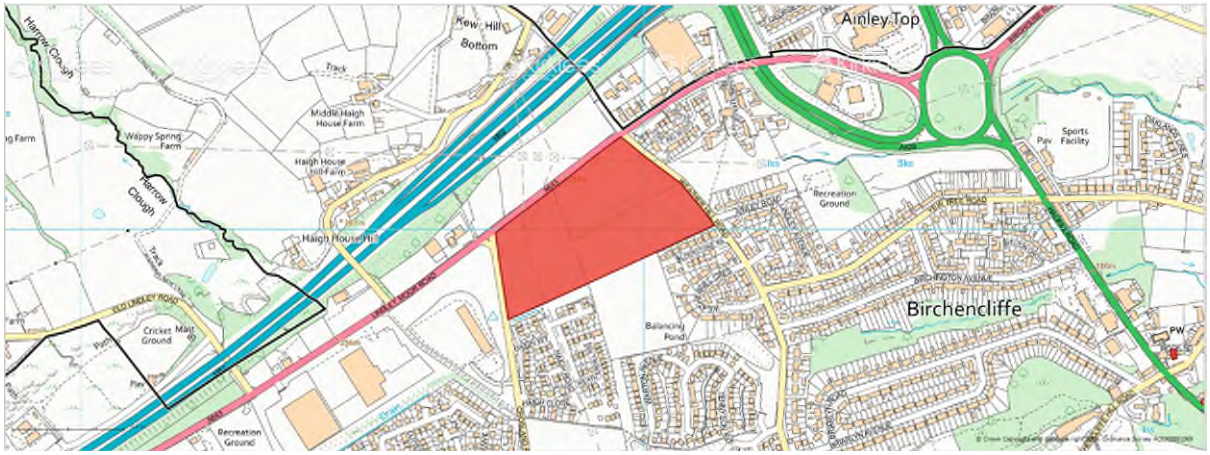
APPLICANT
2SH Developments

DATE VALID	TARGET DATE	EXTENSION EXPIRY DATE
09-May-2022	08-Aug-2022	07-Sep-2023

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

Public speaking at committee link

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Lindley

Ward Councillors consulted: Yes

Public or private: Public

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 and to secure a S106 agreement to cover the following matters:

- Ecological net gain off-site contribution: £9,200.
- Travel plan monitoring: £15,000
- Sustainable travel contribution: £10,000 towards bus stop improvement
- Signal Timing Monitoring at Ainley Top: £24,000 (£12k x 2, at 50% and 100% occupation)
- Skills and education plan: Detailed strategy to be provided and implemented
- Management and maintenance arrangements: Drainage (unless adopted), on-site habitat (min 30 year).

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 Planning and Development 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 Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

1.0 INTRODUCTION

1.1 This is a hybrid planning application, including part outline (all matters reserved) and part full permission elements. Each relates to commercial uses, with the full application relating to a B2 / B8 use, and the outline comprising use classes E(b), B2, and B8.

1.2 The application is brought to the Strategic Planning Committee in accordance with the scheme of delegation as the proposal is a major development and a significant level of public representations, in opposition to officers' recommendation, have been received.

2.0 SITE AND SURROUNDINGS

2.1 The application site has an area of 6.3ha and is roughly rectangular in shape. It is sited circa 450m west of Ainley Top roundabout, which provides connection to J24 onto the M62 motorway that is located circa 130m to the north of the site.

2.2 The site is bounded by roads to three sides. To the north is Lindley Moor Road, to the east is Weatherhill Road, and to the west is Crosland Road. To the west of the site, along Lindley Moor Road, are commercial uses. Residential development boarders the site to the north-east, south-east, and south-west, while due south is a greenfield site that is unallocated in the Local Plan.

2.3 The site itself is unevenly subdivided into three smaller sections by thin lines of planting. The topography is uneven but broadly falls from west to east. PROW HUD/410/10 runs parallel to the southern boundary. Two electricity pylons are sited within the site, one to the west and one to the north-east. The aerial cables of these pylons do not connect to one another, but connect to another pylon to the north of the site across Lindley Moor Road. As a result, aerial cables are strung above two portions of the site.

2.4 The site is part of a larger mixed-use allocation MXS3 in the Local Plan which is 32.2ha in size (therefore the site is 19.5% of MXS3's total area). The mixed uses allocated are housing and employment. The rest of MXS3 allocation has already been built-out under various different planning permissions. The site forms the northeastern corner of the larger allocation.

2.5 As defined in the Castle Hill Settings Study, a significant ridgeline runs through part of the allocation's north-west section.

3.0 PROPOSAL

3.1 This is a hybrid planning application seeking:

- Full permission for the erection of an industrial unit for B2 (general industrial) / B8 (storage or distribution) use, with ancillary office space and associated access, parking, groundworks. Access into and around the site forms part of this application's 'full permission' element.

- Outline permission for mixed use development use class E(b) (restaurant), B2 and B8, with ancillary office space and associated works. The matters of layout, appearance, and scale within the identified outline areas are reserved. Landscaping has been applied for.

3.2 The pylons on site would be retained as existing.

Full permission

3.3 The full permission aspect of this application includes the site's vehicular and pedestrian points of access, the internal footways, road and points of access to the proposed plots, and the erection of the building identified as unit P, as well as associated works within the unit's curtilage.

3.4 Vehicle access would be taken from a single new priority junction from Lindley Moor Road. The new road would run through the approximate centre of the site, with a single main branch to provide access to the site's east and west halves. Accesses to the proposed plots would be interspaced along the new road's length.

3.5 A 2m wide footway would be provided along the whole frontage to Lindley Moor Road. Pedestrian footpaths would be provided from the new road to both Crosland Road and Weatherhill Road.

3.6 The unit P plot has a site area of 1.42ha (22.5% of total site) and is located in the south-east corner of the site. The building would have an internal area of 4802.6sqm, consisting of 4139.4sqm on the ground floor and 663.2sqm at first floor level. The following use breakdown has been provided:

- B2 Industrial: 2836.7sqm
- B8 Warehouse: 909.8sqm
- Ancillary office: 1,056.1sqm

3.7 The building would be 94.5m long and 43.8m wide. This consists of a main central section and two lower sections, one on each short side of the building. The main central section would have a shallow-pitched hipped roof with a parapet. The ridge of the roof would be 12.4m and the parapet 11.1m in height. The lower side sections would be flat roofed with a maximum height of 8.1m.

3.8 The building would have a plinth of blue brick, with the remainder of the building faced in varied modern metal cladding in shades of black and grey. Glazing would be located on the north elevation, with openings on the other elevations limited to escape doors and vehicle service bays. A canopy projecting 3m from the building would be sited above the vehicle bays. Rooflights are proposed in the pitched roof, with solar panels on the western pitch.

3.9 Car parking for 68 vehicles, including four accessible bays and 7 charging points, would be sited to the east / north-east of the building. The south-east would be a service yard aligning with the building's vehicle service bays. A cycle shelter for 10 bikes is to be located to the north of the building.

3.10 A parameter of 2.4m high paladin fencing would be around the plot, bar to the south-east where 2.0m high acoustic fencing is proposed. Outside of the fencing zone would be a buffer zone of landscaping, separating the site from the residential units to the south and Weatherhill Road to the east. A site wide indicative landscaping strategy has been provided and will be detailed below.

3.11 A drainage strategy has been provided which proposes, as part of the full application (to serve the road and unit P), two attenuation tanks. One would be located under unit P's car park / service area, the other in the landscaping area to the east of unit P.

3.12 The drystone wall along the south of Plot 1 would be set back 1.5m to widen the footpath of PROW HUD/410/10.

Outline permission

3.13 Outline permission for the E(b), B2 and B8 use, with ancillary office space and associated works, is sought for the remainder of the site. This would cover an area of 4.24ha or 67.6% of the total site. The considerations of appearance, scale, landscaping, and layout are reserved matters.

3.14 The 4.24ha is proposed to be subdivided between 14 plots, across the proposed use classes, as follows (**all figures in sqm**):

	Use Class					
Plot	E(b) – Restaurant	B8 – Trade Counter	B8 – Warehouse	Ancillary use – office	B2 – Industrial	Total floor space (sqm)
A					525	525
C	908					908
D		260				260
Da		330				330
E		525				525
F			2330	242		2572
G			2615	192		2807
H			314		157	417
I			314		157	417
J			314		157	417
K			314		157	471
L			314		157	471
M			614		232	846
N			307		614	921
Total	**908**	**1,115**	**7,436**	**498**	**2,156**	**12,049**

3.15 An indicative layout plan portraying the layout of the 14 units has been provided. These would be accessed via the road sought as part of the full permission. Units A, C, F and G would accommodate their own plots, while D, Da, E, and L – K would be sited across three shared plots. Each plot, individual or shared, would include dedicated or shared parking spaces and service facilities. While what is shown is indicative, it should be noted that the access road forms part of the detailed proposal which would dictate the layout to an extent.

3.16 A drainage strategy has been provided as part of the application and, for the outline, demonstrates that adequate discharge, flood routing, drainage layout, and attenuation, may be accommodated although the details are indicative.

3.17 An indicative landscaping strategy has been provided which covers the whole site (outline and full areas), along with Ecological Net Gain calculations. This includes the planting of 246 trees (standard or heavy standard), native scrub, species rich grassland, and ornamental planting throughout the site.

4.0 RELEVANT PLANNING HISTORY (including enforcement history)

4.1 Application Site

2000/93276: Outline application for erection of employment business park comprising industrial, commercial and storage units with ancillary facilities, roads and car parking – Withdrawn

2013/93433: Outline application for employment uses (B1b, B1c, B2, B8) – Granted

4.2 Surrounding Area

MAC's Truck Sales Ltd, Crosland Road

2021/91700: Erection of extension to vehicle workshop, engineering operations to excavate and regrade land, formation of extensions to car park and external yard areas, erection of 2.4m high security fencing, external lighting and temporary construction access – Granted

Wappy Springs Inn, Lindley Moor Road

2023/93031: Erection of mixed industrial development (Use Classes E(g)(i, ii, iii), B2 and B8); including demolition of existing structures, new yard, parking, landscaping, drainage features and ancillary structures – Ongoing

Various Locations - A629 Halifax Road, Huddersfield

2021/92734: Improvement and widening of the A629 to include junction improvements, re-positioning of footways and footway improvements, pedestrian crossing provision, the alteration, demolition and erection of walls, construction of retaining walls, erection of fencing, hard and soft landscaping to include the removal of trees and replacement planting, replacement street lighting, change of use of land to highway and change of use to and formation of car park on land adjoining 103 Halifax Road (within a Conservation Area) – Granted

Land North of, Lindley Moor Road, west of Kew Hill, Birchencliffe

2024/90811: Application for certificate of appropriate alternative development – Ongoing

Land at, Warren House Lane, west of Lindley Moor Road, Birchencliffe

2022/92848: Application for certificate of appropriate alternative development – Issued

4.3 Enforcement (application site)

None.

5.0 HISTORY OF NEGOTIATIONS

5.1 The application was subject to a pre-application enquiry, referenced 2020/20447. The enquiry was submitted in October 2020. It proposed 15 buildings across the site, predominantly to be used class B2 or B8 (commercial), but also including a fast food, supermarket, restaurant, and two cafe / take away units.

5.2 The pre-application was presented to the strategic planning committee held on 24/02/2021, with the officer report having the following conclusion:

6.72 In conclusion, bringing forward the remaining part of this mixed-use allocation is welcomed. The proposed B use class units would provide a mix of modern industrial buildings that are suitable for a range of businesses and situated in a strategic location. This element of the scheme would contribute towards the supply of industrial floorspace in the district and deliver economic benefits through job creation.

6.73 The proposal also includes a number of 'employment generating uses' (retail and leisure) which are not in accordance with the land's allocation. The inclusion of these uses restricts the ability of the site to more closely deliver the level of employment floorspace required by this allocation. Nevertheless, it is considered that there is scope for some flexibility with the uses on this site, but this will need to be robustly justified as part of a future planning application. Furthermore, those uses which are defined as main town centre uses will need to be subject to a Sequential Test and Impact Assessment.

6.74 The final scheme will need to fully address the urban design issues set out in this report as well as the advice provided by technical consultees.

5.3 Members broadly supported the development and the support it would offer to local residents. However, one member questioned whether a doctor's surgery could be located on the site, while another raised concerns over the relationship between a unit on the south-east of the development and existing dwellings to the south-east.

5.4 The current planning application was submitted in May 2022. As initially submitted, the proposal included the various mixed uses sought at pre-application being kept. Following advertisement and consultation with technical colleagues, planning officers raised various concerns including (but not limited to) the traffic impacts, economic impacts, and impacts on nearby residents. This led to a period of negotiations and revisions which led to the supermarket and cafe / takeaway uses being removed from the proposal. Unit P (the building subject to the full planning permission element of the proposal) was reduced in size to improve its relationship with neighbouring properties and further details of the traffic implications of the proposal were provided and assessed.

5.5 As a result of the amendments made, the proposal was brought to a position which is considered to comply with all relevant local and national planning policies and may be supported by officers.

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 27th February 2019).

<u>Kirklees Local Plan (2019) and Supplementary Planning Guidance / Documents</u>

6.2 The site is part (19.5%) of a Mixed-Use allocation on the LP Policies Map, under reference MXS3, for housing and employment uses. The allocation has an indicative housing capacity of 443 units and an employment floorspace of 41,702sqm.

6.3 The whole allocation is noted within the Local Plan to have the following constraints:

- Additional mitigation on wider highway network may be required
- Improvements to local highway links may be required
- Additional mitigation on the wider highway network may be required
- Public rights of way cross the site
- Air quality issues
- Potentially contaminated land
- Noise source near site
- Odour source near site
- Part/all of the site is within a High-Risk Coal Referral Area
- Power lines cross the site
- Listed buildings are within and close to the site
- Site includes area of archaeological interest

6.4 The following is noted as an 'other site-specific consideration(s)':

- Residential amenity will need safeguarding through sensitive siting of buildings and landscape buffer areas

6.5 The following Local Plan policies are deemed most relevant to the current application;

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP3** – Location of new development
- **LP7** – Efficient and effective use of land and buildings
- **LP9** – Supporting skilled and flexible communities and workforce
- **LP13** – Town centre uses
- **LP19** – Strategic transport infrastructure
- **LP20** – Sustainable travel
- **LP21** – Highways and access
- **LP22** – Parking
- **LP23** – Core walking and cycle network
- **LP24** – Design
- **LP26** – Renewable and low carbon energy
- **LP27** – Flood risk
- **LP28** – Drainage
- **LP30** – Biodiversity and geodiversity
- **LP32** – Landscape
- **LP33** – Trees
- **LP35** – Historic environment
- **LP38** – Minerals safeguarding
- **LP51** – Protection and improvement of local air quality
- **LP52** – Protection and improvement of environmental quality
- **LP53** – Contaminated and unstable land
- **LP67** – Mixed use allocations

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

Supplementary Planning Documents

- Housebuilders Design Guide SPD (2021)

Guidance documents

- Kirklees Council Social Value Policy (2022)
- 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

6.7 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) 2023, published 19/12/2023 and the Planning Practice Guidance Suite (PPGS), first launched 06/03/2014, 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 7** – Ensuring the vitality of town centres
- **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
- **Chapter 16** – Conserving and enhancing the historic environment
- **Chapter 17** – Facilitating the sustainable use of minerals

6.8 Other relevant national guidance and documents:

- MHCLG: National Design Guide (2021)

Climate change

6.9 The Council approved Climate Emergency measures at its meeting of full Council on 16/01/2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.

6.10 On 12/11/2019 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 predates 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 would use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

7.0 PUBLIC/LOCAL RESPONSE

The applicant's statement of community involvement (SCI)

7.1 The application is not supported by a Statement of Community Involvement (SCI) and no pre-application public engagement was undertaken by the applicant, prior to the submission of this application.

Public representations

7.2 The application has been advertised as a major development via site notices and through neighbour letters to properties bordering the site, and was advertised in the local press This is in line with the Council's adopted Statement of Community Involvement.

7.3 The end date for public comments was 19/08/2022. In total 36 public comments were received across a single public representation period.

7.4 The following is a summary of the comments received via public representation, with a full record being available on the application's webpage:

General

- Development in the Green Belt should not be permitted. Development should be focused on brownfield land.
- This land (Lindley Moor) was gifted to the council 'to be preserved as common land for the use of local residents'.
- The provision of local shopping facilities will help local people who cannot make trips into town. An industrial use is preferable to housing, given the local shortfall in facilities such as schools and GPs.
- The proposal does not respond to local needs. Local residents need more GP services and school places, not industrial developments.
- Local facilities in Salendine Nook, Birchencliffe, and Lindley are adequate and are not needed here. The proposal would take from existing businesses in the area.
- The proposal will contribute to negative air pollution that already exists. This will harm local peoples' health and has been linked to increases in asthma and dementia.
- There will be harm to local ecology and protected species.
- The proposal will not create new jobs, but will move them from elsewhere.

- The application includes inadequate details for residents to comment on and the consultation period has been inadequate and falls below statutory standards.
- The Kirklees Way passes directly through this area and covering the area in buildings and their ensuing traffic would be detrimental to people who wish to use the paths.
- There are watercourses in and around the site which will be harmed and/or affected by the proposal. Water flows from the site into neighbouring properties, which will be worsened by the proposed surfacing. This will lead to flooding of nearby properties.
- The proposal will affect local house prices.
- Local people won't want to use the on-site facilities, including the cafe, restaurant, and shop.
- The development would conflict with the national and council's climate change agenda.
- The proposal fails to adequately detail how it will support climate change measures and incorporate low / zero emissions arrangements.
- The site and area have issues with historic mine works which causes insurance issues for properties. Work on the site will affect local ground stability and impact the foundations of nearby houses.

Amenity

- The proposal is contradictory to the Kirklees Local Plan as it includes uses that are not classed as 'employment generating'.
- The proposal will harm outlooks for neighbouring residents.
- The proposal will cause noise pollution, from the internal operation of the buildings and external movements of vehicles (including HGVs), as noted in the submitted noise impact assessment. Acoustic fencing needed to mitigate the harm, including up to 4.0m in height in certain locations, will be unattractive and create 'dead zones' around the site and neighbouring boundaries.
- The development will cause odour pollution and attract vermin to the area.
- The proposal will cause light pollution towards neighbour dwellings.
- The proposal will cause harmful overbearing, overlooking, and overshadowing of neighbouring land.
- The large areas of car parking and proposed uses will attract crime and anti-social behaviour, both to the site and wider area.

Urban design

- The proposal will lead to development right up to the M62, being a mass of urbanisation, whereas Calderdale is open fields around the M62.
- Trees on the site would be felled, harming the attractiveness of the area.
- The proposal, specifically unit P, is an overdevelopment of the site. It would be akin to a four-storey building, out of scale with the nearby two-storey and bungalow properties.
- The proposed building is unattractive and out of keeping with the area.

Highways

- The proposal will exacerbate issues at Ainley Top roundabout, which is heavily trafficked and congested both at peak times and outside of peak.
- The additional traffic of the proposal will invalidate recent highway improvement works by increasing traffic using them.
- The proposal will lead to congestion in the area, which is already oversaturated with vehicle movements. Local roads are not fit for purpose. No traffic calming measures are proposed. Lindley Moor Road is used as a diversion / ratrun for the M62 when it is closed or busy.
- The council is promoting cycling; however, this development will make using bikes in the area more of a risk.
- Local pedestrian safety will be prejudiced by the proposal.
- The proposal will harm or remove the PROW running through the site.

8.0 CONSULTATION RESPONSES

Calderdale MBC: No comments received.

K.C. Conservation and Design: No objection to the proposal, although due regard to impacts on local heritage assets will be needed at Reserved Matters stage.

K.C. Crime Prevention: Advise on crime mitigation offered and provided to the applicant. No objection subject to conditions.

K.C. Ecology: No objection subject to conditions and securing 0.4 off-site habitat units or £9,200 via S106 towards securing a development ecological net gain.

K.C. Environmental Health: Have considered various potential sources of pollution, including ground conditions, noise, light and odour. While initial concerns were held, based on amended proposals and further details, no objection subject to conditions.

K.C. Highways (Development Management): Initial concerns were held over both the internal layout and the level of details provided regarding the external impact of traffic associated with the proposal. The internal layout was revised to address these concerns, while additional details and justification pertaining to the offsite impacts were provided and found to be acceptable. As such, K.C. Highways offer no objection subject to conditions and a S106 for contributions.

K.C. Lead Local Flood Authority: No objection subject to conditions and a S106 covering management and maintenance arrangements.

K.C. Planning Policy: Have considered the impact of the proposal in terms of the use of a Mixed-Use allocation, as well as the retail impacts (via the retail sequential and impact assessments). In summary, with further details outlined in the main assessment, no objection subject to conditions being imposed.

K.C. Trees: The trees on site are not of significant public amenity value and their removal is not opposed. Likewise for the removal of hedgerow on site. The proposed replanting notably mitigates for the limited loss proposed. No objection subject to conditions.

National Grid: National Grid commented:

> *Provided the statutory safe clearances are maintained from our overhead lines at all times (including during construction) there is no objection from NGET.*

They also provided a Technical Guidance Note regarding constructing near pylons. These comments and the advice note have been shared with the applicant.

National Highways: National Highways expressed an initial objection to the proposal due to insufficient details over the impact upon Ainley Top roundabout. On receipt of further details, National Highways have withdrawn their objection to the proposal, but requested that all parties note the following statement:

> *'dialogue needs to be maintained and continued between all parties to ensure that any proposed changes to the signal timings that affect Ainley Top roundabout are acceptable in operational terms'*

The Coal Authority: The submitted Phase 2 Geo-Environmental Report has been reviewed. In summary, the report is considered sufficient for the purposes of the planning system and meets the requirements of NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development. The Coal Authority therefore has no objection to the proposed development.

The Environment Agency: No comments received.

West Yorkshire Archaeological Advice Service: The site was archaeologically evaluated in 2020 with negative results. Therefore, no further comment or objection is offered.

West Yorkshire Metro: No objection to the proposal. The site is well served by local bus services, which would not be detrimentally impacted by the proposal. A contribution of £10,000 towards local bus stop upgrades, to promote alternative methods of sustainable travel, is sought.

Yorkshire Water: No objection subject to conditions.

9.0 MAIN ISSUES

- Principle of development
- Urban Design
- Residential Amenity
- Highway
- Drainage and flood risk
- Ecology
- Other Matters
- Representations

10.0 APPRAISAL

Principle of development

10.1 Paragraph 47 of the National Planning Policy Framework (the Framework), which is a material consideration in planning decisions, confirms that planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. This approach is confirmed within Policy LP1 of the Kirklees Local Plan, which states that when considering development proposals, the Council would take a positive approach that reflects the presumption in favour of sustainable development contained within the Framework. Policy LP1 also clarifies that proposals that accord with the policies in the Kirklees Local Plan would be approved without delay, unless material considerations indicate otherwise.

Development of a Mixed-Use allocation

10.2 The site is part of Mixed-Use allocation ref. MXS3. Policy LP67 governs the assessment of Mixed-Use allocations, and states:

> *The sites listed below are allocated for mixed use development in the Local Plan. Planning permission will be expected to be granted if proposals accord with the development principles set out in the relevant site boxes, relevant development plan policies and as shown on the Policies Map.*

10.3 The allocation, as a whole, sets out an indicative capacity of 41,702sqm of employment floorspace and 443 dwellings. The total amount of indicative floorspace and dwellings should be achieved from the allocation as a whole, with the application site amounting to 19.5% of MXS3's total area of 32.16ha. This application represents the last plot of the larger allocation to be developed.

10.4 The indicative housing delivery for the allocation has been achieved, via the following application:

- 2018/91078 for 82 units over 2.74ha
- 2016/92055 for 109 units over 3.96ha
- 2014/93136 for 252 units over 10.73ha

10.5 This combines for 443 dwellings over 17.43ha of the site, leaving 14.73ha for the employment uses.

10.6 The Local Plan formally defines Employment Use as;

- B1 Business
  - (a) Offices (other than those that fall within A2 (Professional and Financial Services)
  - (b) Research and Development of products or processes
  - (c) Light Industry
- B2 General Industry
- B8 Storage and Distribution

Note: Following an amendment to The Town and Country Planning (Use Classes) Order 1987 in September 2020 use class B1 has been replaced with use class E(g).

10.7 For employment uses, the following earlier applications have been approved and implemented:

- 2018/90074 for 5,563 sqm floor space over 3.0ha
- 2016/92870 (reserved matters to 2014/93136's outline commercial element), plus later extension via 2021/91700 for a total of 2,447 sqm floor space over 3.0ha
- 2016/90316 (reserved matters to 2014/93136's outline commercial element) for 6,512sqm over 1.92ha

10.8 These combined for 14,522sqm of Employment Use over 7.92ha, leaving the remaining 6.81ha of the site to deliver 27,180sqm of Employment Use. Note that the site area under consideration is 6.3ha, with 0.5ha presumably discounted as landscaping and/or buffer zones.

10.9 For the purposes of the principle of development, the full permission and outline permission elements of this proposal may be assessed together. While at outline, the application includes a detailed floor space breakdown for consideration, with the outline and full application floor spaces combined as follows:

	Use Class					
Plot	E(b) – Restaurant	B8 – Trade Counter	B8 – Warehouse	Ancillary use – office	B2 – Industrial	Total floor space (sqm)
A					525	525
C	908					908
D		260				260
Da		330				330
E		525				525
F			2330	242		2572
G			2615	192		2807
H			314		157	417
I			314		157	417
J			314		157	417
K			314		157	471
L			314		157	471
M			614		232	846
N			307		614	921
P (full)			910	1019	2840	4769
Total	908	1,115	8346	1453	4996	16,818

10.10 In total, the application seeks 15,910sqm of 'Employment Use' floor space (use Class B2 and B8, plus ancillary office use). The proposal would, therefore, cumulative with the other developments on the wider allocation, result in a shortfall in the Local Plan's indicative 'Employment Use' floor space figure of 41,702sqm by 11,270sqm.

10.11 This shortfall must, however, be considered in the context of the whole allocation. It is not reasonable to expect the last part of the allocation to disproportionately shoulder an excessive shortfall which may be partially attributed to earlier developments (many of which were approved prior to the Local Plan and the site allocation being adopted). Furthermore, the local plan's floor space is an indicative capacity, not a mandatory target. Each application must be assessed on its own merits and due regard given to any material planning considerations. The application site has significant constraints, including the overhead power lines, 2 associated pylons and topographical issues, which negatively affect the developable area. Due regard must also be given to the indicative layout and the design proposed. Officers consider the proposed indicative layout to be a reasonable and acceptable response to the site (from an employment delivery perspective), with no evident opportunities for additional buildings. To achieve additional floor space would require larger buildings, which would likely affect separation distances, landscaping, and the overall attractiveness of the site (considered further below).

10.12 Officers also consider the shortfall to be partly mitigated through the inclusion of 908sqm of E(b) restaurant use. The justification provided by the applicant for the non-B use class operations is that the operation would also generate employment, that a wider range of use classes provides economical sustainability for the site, providing additional services to staff located on or surrounding the site and providing facilities for the residential properties in the area who would be within walking distance of the site, which is more sustainable. While not an 'employment use', as defined by the Local Plan, officers acknowledge it would be an 'employment generating use', as defined by the Local Plan, and a modest provision of different use classes, to diversify the site and assist in the delivery of the proposal, is not deemed unreasonable in principle. However, as use class E(b) is considered a 'town centre use', consideration of the impacts on nearby local centres will be required to confirm the principle. This assessment is set out below.

10.13 Considering all these factors officers are satisfied that, despite the fact that the allocation would result in a shortfall from the Local Plan's employment floor space expectations the proposed development would represent an effective and efficient use of the allocation and is deemed to comply with the aims and objectives of Policy LP67.

Town centre use: sequential test

10.14 As the proposal includes a main town centre use that would not be within a defined centre as identified within the Local Plan, a retail sequential test and impact assessment (as the floorspace is above 500 sqm gross) are required to demonstrate compliance with policy LP13. The purpose of this is to protect the vitality of town centres through the reasonable concentration of economic activity.

10.15 The sequential test seeks to establish whether the application (i.e., what is proposed) could be reasonably accommodated at a sequentially preferable alternative location. The following locational preferences are applied for main town centre uses:

1. located in town centre locations
2. edge of centre locations
3. well-connected out of centre sites
4. out of centre sites

10.16 Local Plan paragraph 9.12 provides further guidance on the scope of the sequential test. It outlines that applicants are expected to provide details of the business model for the development, an appropriate catchment that the business would seek to serve and an appropriate audit trail of any sequentially preferable sites that have been discounted with a robust justification.

10.17 The applicant has provided a Sequential & Impact Assessment Report which has been reviewed by a council appointed independent assessor [Nexus Planning]. It should be noted that these documents specifically related to an earlier revision of the proposal, which included a greater proportion of the site being allocated for main town centre uses (1.3ha compared to 0.63ha), as well as more varied uses (including retail and cafe / takeaway). Officers have considered the report in the context of the changes made to the proposal and are satisfied that the methodology and findings are not materially affected by the amendments, which are considered in the below summary.

10.18 First considering the business model intended, following amendments the proposed main town centre use consists of a single E(b) restaurant use. The applicant notes that the site is '*…strategically located proximate to the motorway network and, in addition, Lindley Moor Road is a busy route along the northern edge of the wider Huddersfield area resulting in a significant element of traffic passing the site*'. The applicant's submission identifies the proposal's business model as seeking to serve the following main functions:

- Roadside services and facilities to passing traffic;
- Services and facilities to serve the existing and growing employment; and
- Services and facilities to serve the new residential areas.

10.19 Considering these elements of the business model, the following local centres are considered an appropriate catchment area for the Sequential Assessment (e.g., the area of search for alternative sites) to take place in:

- Birchencliffe Local Centre
- Salendine Nook Local Centre
- New Hey Road Local Centre
- Lindley District Centre
- Marsh District Centre
- Elland Town Centre

10.20 When reviewing the suitability of sites within these centres, both existing vacant units and undeveloped land may be considered. In terms of size, a site area of 0.63ha is proposed with an indicative GIA of 908sqm for the E(b) restaurant. Therefore, a similar sized location must be sought. However, the NPPF states that applicants and local planning authorities should demonstrate flexibility on issues such as format and scale *"so that opportunities to utilise suitable town centre or edge of centre sites are fully explored*". To accommodate flexibility, a site search threshold of 10% above and below has been applied and is deemed reasonable (i.e., a site area of 0.57 - 0.69ha, or building of 817 - 999sqm).

10.21 With the catchment area and parameters established, each local centre was reviewed as follows:

Birchencliffe Local Centre: There are no vacant units that fall within the identified size requirements. Undeveloped land in or adjacent to the centre is allocated as Urban Green Space and therefore not suitable.

Salendine Nook Local Centre: There are no vacant units that fall within the identified size requirements. The sole site that may be suitable would be the former Spotted Cow Public House, however in light of the recent approval for a new foodstore on this site, it is no longer considered to be available.

New Hey Road Local Centre: There are no vacant units that fall within the identified size requirements and no undeveloped land of an adequate size.

Lindley District Centre: There are no vacant units that fall within the identified size requirements. Four undeveloped sites were considered. The first two consisting of Daisy Lea Recreation Ground and the land associated with Church of St Stephen, are both designated as urban greenspaces within the adopted Local Plan and are therefore not considered to be suitable to accommodate commercial uses.

The third, the site north of Brian Street is situated to the west of the district centre, in an edge of centre location. The site measures approximately 0.3ha and although is brownfield land, is considered to be too small to accommodate the proposal, even when applying a sufficient degree of flexibility. Finally, the fourth site identified is situated to the west of Lidget Street, measures approximately 0.8ha and is allocated for housing development within the adopted Local Plan. Although the site is situated in an edge of centre location, it is a back land site, with a contradictory allocation and is a larger size to accommodate the proposal.

Marsh District Centre: There are no vacant units that fall within the identified size requirements and no undeveloped land of an adequate size.

Elland Town Centre: The largest vacant unit located within the town centre is a former office at 39-43 Southgate. The unit is being actively marketed and is therefore considered to be available. However, at 259 sq.m, the unit is not considered to be of a suitable size to accommodate the proposed development.

Turning to edge or better connected out of centre sites, we note that Unit 6 at Riverside Mills on Saddleworth Road is also being actively marketed and is considered to be available. The unit measures approximately 444 sq.m, and even when taking account of the adjacent car parking, it is not of a sufficient scale to accommodate the proposal. In any event, the site is situated off a B-road and is not therefore sufficiently prominent to suitably accommodate the proposed development

Finally, we are also aware of the vacant B1/B2/B8 commercial premise located within the Rosemount Estate (Bay 1) which is also being actively marketed. The ground floor of the unit measures approximately 1,709 sq.m and is situated in an edge of centre location in planning policy terms. The site forms

part of a wider, well-established industrial estate and is one part of a larger commercial building. We are satisfied that in light of the nature of the building and the likely limited opportunities to redevelop the site without significant wider implications to the overall estate, that the site is not considered to be a suitable alternative to accommodate the proposed development. Furthermore, the site does not benefit from prominent and direct road frontage, and would therefore be unlikely to attract the pass-by traffic as identified above.

10.22 Summarising the above, it is accepted that none of the centres identified include potential sequential sites which could be considered to be both available and suitable to accommodate the application proposal, even allowing for appropriate flexibility in respect of format and scale. Officers are therefore satisfied that there is no sequentially preferable location which could support the proposal. It is therefore concluded that the application proposal accords with the requirements of the sequential test as per Policy LP13 of the Local Plan.

10.23 Separate to the above, the proposal includes three B8 units that are to operate as storage and/or distribution with trade counters. Subject to these operating as true trade counters, they would not be considered a main town centre use. To ensure they do not progress into a predominant retail unit, which would be a main town centre use that has not been assessed, it is considered reasonable and necessary to condition that the retail trade counter's floor space be limited to 10% of the building's overall floor space. This will ensure that the trade counter remains a subservient aspect to the overall B8 use.

Town centre use: impact test

10.24 Policy LP13 requires that developments for main town centre uses which are located outside of a defined centre, which exceed 500sqm in floor space (alongside other triggers) will require a Retail Impact Assessment. The purpose of this is to ensure a new out of centre retail stores do not prejudice the viability and vitality of the nearby local centres.

10.25 It should also be recognised that impacts will arise with all retail developments, but that these will not always be unacceptable, not least because development often enhances choice, competition and innovation. It is therefore necessary to differentiate between those developments that will have an impact and those that will undermine the future vitality and viability of established centres, i.e. have a 'significant adverse' impact. Paragraph 015 of the Town Centres and Retail PPG is also of relevance in considering how the impact test should be applied. It states that:

> *'As a guiding principle impact should be assessed on a like-for-like basis in respect of that particular sector (e.g. it may not be appropriate to compare the impact of an out of centre DIY store with small scale town-centre stores as they would normally not compete directly). Retail uses tend to compete with their most comparable competitive facilities*.'

The two key impact tests identified by paragraph 94 of the NPPF are considered below. The tests relate to:

- the impact of the proposal on existing, committed and planned public and private sector investment in a centre or centres in the catchment area of the proposal; and
- the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider retail catchment (as applicable to the scale and nature of the scheme).

The previous identified catchment, as defined in paragraph 10.21, remains relevant for the Retail Impact Assessment.

10.26 In their assessment, the council's independent assessor Nexus Planning confirmed that they are not aware of any existing or planned town centre investment which could be impacted upon as a result of the proposal, nor are officers. Officers are therefore satisfied that the proposal complies with the first part of the impact test. Regarding the second strand of the test, a detailed and comprehensive assessment is provided within the council's independent assessor's report. In summary, they offer the following conclusion:

> [The applicant's] *analysis includes a review of the existing food and drink offer within the defined centres and sets out how the proposed development is qualitatively different to that which is provided within the centres.*
>
> *Nexus Planning has also visited the key centres of relevance to the assessment and agrees with ID Planning's assessment. In this regard, we agree that the proposed coffee shops* [since omitted from the proposal] *and restaurant proposed at the application site would not compete directly with the type of food and drink offer which has been identified within the defined centres.*
>
> *In this regard, the existing offer within the centres are focused more on small independent cafes and restaurants which are likely to have a dedicated customer base and which will likely form part of a wider linked-trip with other operators within the centres.*
>
> *Furthermore, the proposed leisure floorspace at the application site will also draw direct trade from the surrounding existing and proposed employment floorspace, where the workers are unlikely to have been visiting the existing cafes, takeaways and restaurants within the surrounding defined centres in any event.*
>
> *Given the above, we conclude that the proposal complies with the second strand of the NPPF impact test.*

10.27 Considering the above, officers are satisfied that the proposed development would not harm the viability and vitality of the nearby local centres. Officers consider that the proposal has passed the Retail Impact assessment and is deemed to comply with the objectives of Policy LP13.

10.28 The above assessment has been made on the basis of the proposed main town centre being an E(b) restaurant, which falls into the wider class E use class. Another class E use class, such as retail or offices, may have a materially different impact on the nearby local centres not considered during this assessment process. It is therefore considered reasonable and necessary, to protect the viability and vitality of the nearby centres, to limit the restaurant to be a restaurant only via condition.

Sustainable Development and Climate Change

10.29 As set out at paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF goes on to provide commentary on the environmental, social and economic aspects of sustainable development, all of which are relevant to planning decisions

10.30 The application is supported by a Climate Change Statement which details potential measures that could be employed at the site to promote sustainable development. The statement is structured under a number of themes, and summarises how the sustainability aspirations may be delivered by a series of strategies to address key environmental, social and economic issues.

10.31 The measures detailed within the document are welcomed. THis includes the installation of solar panels on unit P, the building subject to the full permission element of this proposal. A condition requiring the installation of solar panels on this building, to promote renewable and low carbon energy production, is deemed reasonable. Regarding the outline element of this proposal, end users are unknown and the indicative details provided are subject to change at reserved matters stage. A condition is therefore recommended requiring a Climate Change statement at RM stage which details specific measures, built upon the sustainability statement submitted at OL stage.

10.32 Regarding climate change, measures would be necessary to encourage the use of sustainable modes of transport. Adequate provision for cyclists (including cycle storage and space for cyclists), electric vehicle charging points, and other measures have been proposed or would be secured by condition (referenced where relevant within this assessment). A development at this site which was entirely reliant on residents travelling by private car is unlikely to be considered sustainable. Drainage and flood risk minimisation measures would need to account for climate change. These factors will be considered where relevant within this assessment.

<u>Urban design</u>

10.33 Relevant design policies include LP2 and LP24 of the Local Plan and Chapter 12 of the National Planning Policy Framework. These policies seek for development to harmonise and respect the surrounding environment, with LP24(a) stating; '*Proposals should promote good design by ensuring: the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape'*.

10.34 The application site is currently undeveloped, undulating agricultural land. The area is on the settlement edge, transitioning to the open countryside to the north. As part of a Mixed-use allocation to host commercial units, it is accepted that the development of the site would lead to a notable change in the

character of both the site and immediate vicinity. Nonetheless, the proposal will need to be carefully considered so as to respect the topography and character of the area, without appearing overly dominant. The elements of the proposal are considered below:

Unit P and access road (full submission)

10.35 Unit P and the site's access road are subject to a full application and therefore a detailed assessment may be made on their visual impacts.

10.36 The new road would take the form of a typical modern estate road, running from the point of access at Lindley Moor Road into the centre of the site. Branching internal access points would provide access to Unit P and the plots associated with the outline application units (considered further below). While no street-trees are proposed at present as part of the full permission, the indicative landscaping strategy submitted with the outline element of the proposal shows ample opportunity for tree planting, amongst other means of landscaping, around the highway as part of subsequent phases that would result in an attractive setting.

10.37 Unit P is sited in the site's south-east corner of the application site. It would be set back from the Weatherhill Road frontage, with the car park and landscaping areas between, so as not to overly dominate the streetscene. Nonetheless, by the simple virtue of its size and its nature as an industrial building, the proposed building will be prominent within the wider environment. It would also be seen alongside residential dwellinghouses, of a much smaller scale. The characteristic of larger commercial buildings along Lindley Moor Road has however been established via the allocation and the units within the allocation constructed to the west of the application site. The scale and height of unit P would be commensurate to the scale of the nearby existing commercial units. Nonetheless, the evident height of the building has been reduced through the use of a parapet and shallow pitch roofing system, along with the side sections being notably lower than the main core of the building. Considering this, and the generous landscaping buffer zones around the site, officers consider that the scale of the building would be well accommodated within the site and not appear either unduly prominent or unattractive within the area.

10.38 The appearance of the buildings is typical for contemporary industrial units and would not appear out of place alongside the appearance of the other commercial buildings along Lindley Moor Road. It is proposed to be faced in a modern cladding system in shades of grey. Grey is considered preferable to green (or other colours) 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 environment of 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

10.39 Regarding the external works, the unit's car park would be sited between the building and Weatherhill Road which, as noted above, creates a welcome separation. The car park itself is typical in form and appearance for such a development. Officers are satisfied that the level of surfacing is not excessive, being commensurate to the scale of the host building, with open space for landscaping to break up the hard surfacing, which is desirable. Boundary treatment is to be a mixture of 2.4m high paladin fencing and 2.0m acoustic fencing (see paragraphs 10.68 – 10.69 regarding noise pollution). Neither of these are atypical for a commercial development, but positively each are set well into the site and away from the boundary.

10.40 The submitted landscaping strategy around Unit P (and therefore forming part of the 'full application', with the rest of the site's landscaping being a reserved matter (considered below)) includes a mixture of species grassland, native scrub, and tree planting. This includes 37 standard trees. The siting of an attenuation tank on the eastern open space prohibits the planting of a larger number of trees in and around this area (due to maintenance conflicts between subterranean tanks and tree routes), however this open space will be planted with species rich grassland and host trees, where feasible. This will provide an attractive setting to the front of unit P and mitigate its visual impact when viewed from Weatherhill Road. The proposed landscaping (for unit P) is considered attractive and acceptable, although a condition for a fully detailed strategy, to include management and maintenance arrangements, is recommended.

10.41 An indicative landscaping strategy for the areas subject to an outline permission has been provided. This demonstrates that the landscaping within unit P's curtilage, and therefore subject to the full permission, may form a combined and coherent landscaping strategy with the remainder of the site that would result in an attractive, well planted and natural setting for the development as a whole.

10.42 In summary, it is acknowledged that the proposed works that are subject to the full planning permission, alongside those that comprise the outline proposal, would notably change the character and appearance of the site and, to a lesser degree, the wider area. Nonetheless, the proposed development is deemed to be designed to a high standard and would not prejudice the character and attractiveness of the area. The proposal would represent an attractive continuation of the urban environment. Accordingly, the proposal is deemed to comply with the aims and objectives of Policies LP2 and LP24 of the Local Plan.

Units A – N (outline submission)

10.43 The remainder of the site and the 14 commercial units comprise the outline aspect of this proposal, where the matters of appearance, scale, layout, and landscaping are reserved for latter consideration. However, while specific details are not available at this time, officers must consider whether any prohibitive reasons exist why appropriate details could not be provided later. An indicative layout plan with GIA figures has been provided, to demonstrate how the site may be arrayed.

10.44 The indicative plan demonstrates that the plots would be accessed from within the site, via the new road (subject to full approval, as outlined above). Each plot is shown to host either individual or groups buildings, with dedicated or communal parking areas and servicing facilities. From an urban design perspective, and based on the details held at this time. The indicative layout portrays a typical modern industrial estate. There is an established characteristic in the area for commercial developments on Lindley Moor Road alongside residential properties to the rear / south.

10.45 Plots A, C and D are sited along the Lindley Moor Road frontage, akin to the recent commercial developments to the west of the site (the other commercial elements of the Mixed-Use allocation) and would be suitably set back. Plots G – N are sited within the centre / rear of the site and would be largely screened from public view. Overall, the indicative layout is considered to have good spacing between units and around the site in general, allowing opportunities for quality landscaping within the site and around the perimeter which would contribute to enhancing the site's appearance.

10.46 Considering heights, it is accepted that typography will be a challenge for the site given its existing levels. Nonetheless, development upon Lindley moor is characterised as a settlement built upon a hillside, with varied ground levels and heights are not unusual. Careful consideration would be needed over the massing, scale, eaves and ridge heights of new buildings at reserved matters stage. Nonetheless, in this setting, there are no concerns that an appropriate design response to the levels could not be realised. Full details of any levelling and regrading works, and of any necessary retaining walls and structures, would also need to be provided at Reserved Matters stage.

10.47 On the matter of appearance, which is the external built form of the development, such as aspects of architecture, materials, decoration, lighting, colour and texture, the units are expected to have a typical modern commercial design that would replicate, or at least harmonise, with unit P (considered above) which is considered acceptable in principle. This is with the exemption of Unit G, which is to be a restaurant and would have a less commercial aesthetic. Nonetheless, officers are satisfied that there are no prohibitive reasons why appropriate appearance details could not be provided at the reserved matters stage.

10.48 Notwithstanding the above, officers hold reservations over unit F's layout as shown on the indicative layout, specifically its proximity to Crosland Road and existing dwellings to the south on Haigh Way and Haigh Road (in so far as it relates to urban design; see the below section for considerations of residential amenity). It is considered, at the separation distances shown, the unit may be unduly prominent and visually dominant, particularly at the presumed height. This is, however, dependent on the final layout, scale and massing of the building, and the effectiveness of any landscaping as screening. Officers do not consider this concern, based on an indicative plan, to represent a fundamental issue that would prevent an outline application being approved. A thorough and detailed assessment of unit F (as with all units) would take place at Reserved Matters stage, when all relevant details are available.

10.49 The proposal includes indicative level details that demonstrate that retaining walls will be required through the site, principally to accommodate the east / west fall. Given the scale of the buildings being considered, they would be necessary to enable reasonable development plateaus. Full details would

come forward at the reserved matters stage, but based on the indicative details held, no prohibitive concerns are held. On boundary treatment, this is expected to be typical commercial security fencing but, as per the indicative layout, could be set back into the site as opposed to on the boundary, which is deemed reasonable in principle. A 4m high acoustic fence is indicatively suggested to mitigate noise attributed to unit F. Officers have elsewhere raised concerns over the size and location of plot F and would add this to those concerns. Given the suggested fence is indicative, with a wide range of considerations being uncertain at this time, officers do not have a fundamental concern over this, but would consider the matter further at reserved matters stage.

10.50 In summary, officers are satisfied that there are no probative reasons why appropriate details of landscape, scale, appearance, or layout could not be provided at the reserved matters stage. It is considered that the outline submission complies with the requirements of Local Plan policies LP2 and LP24 although final approval would be subject to a full and detailed assessment of the details provided at Reserved Matters stage.

Historic environment

10.51 Policy LP35 confirms that development proposals affecting a designated heritage asset should preserve or enhance the significance of the asset. In cases likely to result in substantial harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring substantial public benefits that clearly outweigh the harm. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a general duty in respect of listed buildings in exercising planning functions. In considering whether to grant planning permission for development which affects a heritage asset or its setting the LPA should have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.

10.52 There are no designated heritage assets on the site itself, although to the west of the Lindley Moor Road and Crosland Road junction is a Grade II* listed guide stoop and the Grade II listed Haigh Cross is on land further south to the west of Crosland Road.

10.53 The impact of the development on the setting of the designated heritage assets above is limited to buildings A and F which are located near the west boundary of the site. The map of 1854 indicates that the guide stoop was on the east corner of the junction, and more recently on a traffic island in the centre of the widened junction. It is currently located on the west corner on land of the now traffic-light controlled junction, adjacent to a new footway. The setting of the guide stoop has been altered significantly due to changes to the road layout and addition of street furniture, although the stoop is still located on its original junction. The proposed location of Building A, a proposed single storey structure, is near this corner of the site with car parking providing a buffer between the unit and listed guide stoop,

10.54 Building F is a substantial two-storey structure which is directly opposite Haigh Cross. The setting of the cross has been eroded significantly with the development of a large commercial building directly to the west. The area between the cross and Crosland Road has been landscaped to allow the cross

to remain visible from this road. The construction of Building F on land to the east of the road will further harm its setting by the loss of more historic open fields.

10.55 Based on a review of the indicative layout, officers consider that to reduce the harm unit F would ideally be reduced in scale, with careful consideration of materials and details on the west elevation, along with the drystone wall on the west boundary being retained with attractive landscaping. However, as noted the details pursuant to unit F are indicative only, with the matters of scale, layout, and appearance reserved for later consideration and therefore subject to change and further consideration at a later date.

10.56 It is considered reasonable and necessary to require that an updated Heritage Impact Assessment be submitted to support any Reserved Matters application for the units near to the western boundary. This is to ensure a thorough and detailed assessment on the proposal's impacts upon the identified heritage assets may be undertaken, when full details are held.

10.57 While a detailed assessment would be required at application stage, without prejudice to any subsequent assessment and Heritage Impact Assessment to be provided, at this time officers consider that the proposed development would likely lead to less than substantial harm to the setting of the Grade II* listed guide stoop and the Grade II listed Haigh Cross. Nonetheless, there is considered no fundamental impact that could not be overcome at Reserved Matters stage through appropriate design and consideration. This is based on the available details the harm is expected to be low due to previous changes in context and setting, and the proximity of the site on the opposite side of the Crosland Road. This anticipated low level of harm to the identified assets would be clearly outweighed by the public benefits of providing employment opportunities and commercial space.

10.58 Considering other heritage assets, as defined in the Castle Hill Settings Study, a significant ridgeline with views towards the Castle Hill (an Ancient Monument with Victoria Tower, a grade 2 listed structure), runs through part of the allocation's north-west section of the allocated site. These ridgelines are important vistas towards Castle Hill and should be preserved where feasible. However, it should be noted that the ridgeline is currently below a pylon, where access is restricted (for safety), and on private land that is not publicly accessible. Therefore, the ridge is of restricted existing value. Nonetheless, with the development of the site, opportunities to open up views from the ridge are possible (albeit that the pylon is to be retained). As the ridgeline falls within the outline aspect of the proposal, a full and detailed assessment cannot be made at this time. Officers would expect possible views towards Castle Hill from within the site to be considered as part of the revised Heritage Impact Assessment, in the interest of enhancing the development. However, for the avoidance of doubt, the proposal is not considered harmful to the heritage value of either Castle Hill or Victoria Tower.

10.59 In conclusion, giving due regard to Section 66 of Planning (Listed Buildings & Conservation Areas) Act 1990 and the general duty it introduces in respect of listed buildings, the requirements of Chapter 16 of the NPPF, and LP35 of the Kirklees Local Plan, officers acknowledge that the proposal may result in less than substantial harm to the Grade II* listed guide stoop and the Grade II listed Haigh Cross. However, this matter is not considered of fundamental concern, subject to conditions for updated Heritage Impact Assessments and

appropriate design mitigation being secured at Reserved Matters stage. In the event that less than substantial harm is caused, it is concluded that the public benefits of the proposal would clearly outweigh the harm caused, in compliance with the aforementioned policies.

Impact on residential amenity

10.60 Local Plan policy LP24 requires developments to provide a high standard of amenity for future and neighbouring occupiers, including by maintaining appropriate distances between buildings.

Unit P and access road (full submission)

10.61 Unit P forms the full permission element of the proposal. Therefore, full details on this building's appearance, scale, and layout are known. This enables a detailed assessment of the impacts. Unit P would be located in the application site's south-east corner, with existing dwellinghouses being located to its south, south-east, and north-east.

10.62 The building would be sited in excess of 60m away from the dwellings to the north-east, on Stirling Wood Close, and 80m to the properties to the south-east on, Ainley Road. Notwithstanding the application site being on a higher ground level, and the notable height of the building, officers are satisfied that these separation distances, plus the respective orientation of the dwellings and their windows towards the site offering only oblique views towards the site, plus the intervening Weatherhill Road, are sufficient to prevent concerns of overbearing, overshadowing, or overlooking.

10.63 The properties to the south of the site, on Alderstone Rise, are notably closer to unit P, particularly nos. 12 – 16. While other properties on Alderstone Rise (which includes bungalows) back onto the site, these are set at a more oblique angle to the new building. Nos. 12 – 16 would have a clear view towards unit P, which would be sited directly behind them and therefore be prominently visible. While these properties currently have an unobstructed outlook onto a field, there is no right to a view within the planning system. However, due regard must be given to material planning considerations relating to residential amenity, such as whether overbearing, overshadowing, or overlooking may be caused.

10.64 When considering overbearing, due regard should be given to the separation distance and respective heights (including ground level) of the buildings in question. These are as follows:

- No. 12: 25.0m away and set 1.2m lower than the proposed building.
- No. 14: 25.5m away and set 0.4m lower than the proposed building.
- No. 16: 26.6m away and set 2.8m higher than the proposed building.

The different ground levels are by virtue of Alderstone Rise being sloped and the application site having being plateaued.

10.65 The large size of the proposed building compared to the residential dwellings is noted, as is its higher ground level to no. 16; however, following amendments the new building has been designed to mitigate the impact on the dwellings in question. In addition to amendments which set it further away

compared to that originally proposed, the lower flat roofed side section was introduced to further move the massing of the building away from nos. 12 – 16. The flat roofed side section nearest the neighbouring dwellings has a height of 8.1m, not too dissimilar to a two-storey dwelling. This sets back the parapet roof section, which has a height of 11.1m, by a further 7.0m. By virtue of the sloped roof, the full height of the building (12.4m to ridge) is set a total of 12m away from the side elevation closest to nos. 12 – 16. Therefore, the full height of the building would be between 37.0m and 38.6m away from nos. 12 – 16. Officers are satisfied that this stepping of heights and distance is sufficient to prevent materially harmful overbearing upon the neighbouring properties, including nos. 12 – 16, but also the other properties on Alderstone Rise backing onto the site. A condition requiring the building's finished floor level be as per the submitted plans is recommended.

10.66 No windows are proposed on unit P's south elevation, preventing concerns of overlooking. The removal of PD rights for alterations on this elevation via condition is recommended, to retain this arrangement. As unit P would be due north of nos. 12 – 16, at the separation distances identified, the structure would not interfere with sunlight to result in harmful overshadowing.

10.67 Boundary treatment consists of 2.4m high paladin fencing and 2.0m high acoustic fencing, where needed as identified by the Noise Impact Assessment (considered further below), to define the site's compound. The fencing is set into the site, with the landscaped buffer zone to the plot's south and east separating the fencing from neighbouring properties. The fencing proposed raises no concerns regarding overbearing or overshadowing.

10.68 As a commercial development, unit P has the potential to cause noise pollution. K.C. Environmental Health has reviewed the applicant's initially submitted Noise Impact Assessment. This was tailored for a specific end user, who was seeking to operate 24-hour operations each day, with external yard activities taking place between 0700 - 1800 all days. Subject to internal noise mitigation, external acoustic screening and external plant noise levels each being secured by conditions, K.C. Environmental Health concluded this to be acceptable and would not result in materially harmful noise pollution to nearby residents.

10.69 Since the review of the initially submitted Noise Impact Assessment the intended occupier has been lost. Therefore, the applicant has submitted a revised, general purpose Noise Impact Assessment. While the initial report demonstrated that appropriate arrangements may be secured and noise is not a prohibitive issue, comments from K.C. Environmental Health on the updated report is pending and is to be reported within the update to members prior to the committee.

10.70 A detailed external lighting strategy has been provided for unit P. This has been reviewed by K.C. Environmental Health and confirmed not to result in harmful light pollution to nearby dwellings. A condition requiring that the external lighting be installed with the submitted details is recommended.

10.71 A condition requiring the submission and approval of a Construction (Environmental) Management Plan (C(E)MP) is recommended. The necessary discharge of conditions submission would need to sufficiently address the potential amenity impacts of construction work at this site,

including cumulative amenity impacts should other nearby sites be developed at the same time. Details of dust suppression measures would need to be included in the C(E)MP. An informative note regarding hours of noisy construction work is recommended. This would apply to both the full and outline elements of the proposal, with the CEMP either being site wide or per phase.

10.72 In conclusion, officers are satisfied that the elements of the proposal that consist of the full submission (namely unit P, works within its curtilage, and the access road) would not result in material harm to the amenity of nearby residents, subject to the recommended conditions. Therefore the full permission would comply with the aims and objectives of LP24, LP51, and LP52.

Units A – N (outline submission)

10.73 Outline planning permission is sought for the remaining units, and as a consequence, the wider layout plan is preliminary, although it should be noted that the access road forms part of the detailed proposal and that this will dictate the layout to an extent. Nevertheless, given that scale, layout, landscaping, and appearance are reserved matters, full details of the proposals are not under consideration at this time. However, due regard may be given to whether any prohibitive issues may exist that would prevent appropriate and reasonable Reserved Matter details coming forward. Furthermore, an indicative layout has been provided for consideration, demonstrating how the site may be developed in the future.

10.74 Properties adjacent to the outline elements of the proposal include those to the south-east on Haigh Way, Haigh Road, and Weatherhill View. These properties would be adjacent to units F and G (on the indicative layout). The properties on these streets predominantly do not face towards the side, presenting side elevations to the site. Furthermore, a buffer zone was incorporated into the residential development, separating the dwellinghouses from the site boundary. The one exemption regarding orientation is no. 1 Weatherhill View, which has a rear elevation facing unit G, at a separation distance exceeding 36m.

10.75 By virtue of the orientation of most neighbouring properties, the indicative separation distances, and that both the application site and former housing development included a reasonable buffer zone in each of their respective parcels, most of the dwellings on Haigh Way, Haigh Road, and Weatherhill View would not have a clear or close view towards the development site. Notwithstanding the anticipated scale of the proposed buildings, which would likely be evident from certain angles from the dwellings, officers are satisfied that appropriate details may be provided at the reserved matters stage that would result in no materially harmful overbearing.

10.76 Because the site is due north of the properties on Haigh Way, Haigh Road, and Weatherhill View, and given the indicative separation distance, there are no concerns of overshadowing. Window location on the new buildings falls under the remit of the reserved matter ‘appearance’, and therefore cannot be assessed at this time. However, there is no fundamental reason why either unit G or F would require windows on their south elevation that may cause overlooking, and therefore no immediate concern is held.

10.77 To the north-east, across Weatherhill Road, are properties on Stirling Wood Close. These units would be closest to plots D, Da, and E.

10.78 The properties on Stirling Wood Close are in excess of 60m away from the nearest unit, unit E. This is with Weatherhill Road and one of the site's pylons intervening, along with an area of landscaping indicatively shown between. Officers are satisfied that this separation distance is sufficient to prevent concerns of overbearing, overlooking, and overshadowing upon occupiers of Stirling Wood Close.

10.79 Details of boundary treatment, levels, and landscaping would be provided at the reserved matters stage. At this time there are no fundamental concerns and officers are satisfied adequate details could be provided as part of a reserved matters application.

10.80 As a commercial site, all of the proposed units have the potential to generate noise pollution. This includes via internal production processes and external serving. The application is supported by a Noise Impact Assessment which has been reviewed by K.C. Environmental Health. As all matters specific to design of the units are reserved (including the layout (therefore proximity to neighbouring properties) and appearance (therefore windows and opening)), the report highlights the limitation of certainties at this time. Nonetheless, reasonable assumptions have been used to determine the impact the development site may have on noise sensitive receptors and K.C. Environmental Health is satisfied that the report makes reasonable assumptions to reach its conclusion. This includes mitigation measures being proposed that, based on the assumption, would suitably control noise so as not harm the amenity of nearby residents. Of note, this includes a 4m high close-boarded acoustic fence installed along the southern boundary of unit F's yard, which has been considered separately (from a design perspective) in paragraph 10.49. From an amenity perspective, officers are satisfied that such a fence would not result in material harm to the living standards of nearby residents, based on its indicative location.

10.81 While not disputing the indicative conclusions of the Noise Impact Assessment, K.C. Environmental Health considers it premature without the actual particulars being provided. However, they accept there are no fundamental noise concerns, subject to appropriate mitigation being installed. A condition is therefore recommended for a further noise impact assessment, at Reserved Matters stage, once details on the particulars are known. This includes the hours of use. A condition relating to mechanical plan and limiting noise it may produce is also recommended.

10.82 A condition for the reserved matters submission to include an external lighting strategy is recommended. This is to ensure no detrimental light pollution to nearby dwellings.

10.83 Unit C is intended as a restaurant and therefore would include cooking on site. As such, odour is a potential pollutant. An odour assessment has been submitted as part of the application and considered by K.C. Environmental Health. While the report concludes there are no fundamental issues relating to odour pollution, mitigation would likely be required. However, as the end user and design of the restaurant is unknown, as it forms part of the outline

permission, the exact impacts and therefore mitigation is unknown. Officers therefore recommend a condition that requires the relevant reserved matters submission, which includes the restaurant, include a dedicated odour impact assessment.

10.84 In conclusion, officers are satisfied that the elements of the proposal that consist of the outline submission (namely units A - N and their respective curtilages) would not result in material harm to the amenity of nearby residents, subject to the recommended conditions. Therefore, the outline permission would comply with the aims and objectives of LP24, LP51, and LP52, although final approval would be subject to a full and detailed assessment of the details provided at Reserved Matters stage.

Impact on highway safety

10.85 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development would normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.

10.86 The NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. The NPPF continues that that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.

10.87 First considering traffic generation, the (total, across both outline and full aspects of the proposal) floor space proposed is expected to generate the following vehicle movements:

	Arrivals	**Departure**	**Two-way**
AM Peak	127	77	204
PM Peak	110	135	245

10.88 These movements would include a mixture of private vehicles, LGVs and HGVs. Due regard has been given the impacts these movements would have on the local highway network. Principally this relates to the nearby Ainley Top roundabout.

10.89 K.C. Highways conclude that whilst the existing traffic situation on Ainley Top has some extensive queuing and indeed an increase in the forecast year of 2032. Based on the data gathered and comments received within the public representations it is accepted that the roundabout is busy at peak times. However, paragraph 115 of the NPPF sets out the following test:

Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Both K.C. Highways and National Highways are satisfied that the impact would not be severe, and therefore the proposal would not conflict with the test of paragraph 115. However, to ensure the roundabout operates as effectively as possible officers recommend that two periods of traffic light signal monitoring at the roundabout be secured via the application, at the applicant's expense at £24,000 (£12,000 per period of investigation). These would take place at 50% and 100% occupation, and enable the lights to be modified if the traffic attributed to the development affects their current use.

10.90 Given that the majority of traffic is anticipated to exit the site via Ainley Top roundabout, there are no concerns over impacts on other nearby junctions or routes.

10.91 Concluding on the traffic impact of the proposal, based on the junction modelling assessments that have been provided, it has been identified that development traffic can generally be accommodated on the local highway network without any significant capacity impacts, subject to the abovementioned review at different occupation points. However, the above assessment has been made on the submitted floor space figures and use classes. A condition is therefore recommended to limit the development, via the subsequent reserved matters, to the maximum floor spaces as set out in paragraph 10.9.

10.92 Regarding traffic during the construction period, given the scale and nature of the development officers recommend a Construction Management Plan (CEMP) be secured via condition. This is to ensure the development would not cause harm to local highway safety and efficiency. This would be required pre-commencement, given the need to ensure appropriate measures from the start of works. K.C. Highways DM have also advised that a 'highway condition survey' be undertaken, via condition. This would include a review of the state of the local highway network before development commences, and a post completion review, with a scheme of remediation works to address any damage attributed to construction traffic. This request is considered reasonable, and a condition is recommended accordingly.

10.93 The proposed access point onto Lindley Moor Road and the internal road layout, which form part of the full application, have been subject to a Road Safety Audit which has been reviewed and accepted by K.C. Highways. The proposed highway arrangements are deemed to comply with the standards of the Highway Design Guide SPD. Furthermore, there is no prohibitive reason preventing a road scheme to an adoptable standard (although not necessarily to be adopted) being brought forward. Full technical details of the new access road, to an adoptable standard, would be secured via condition.

10.94 The proposal includes the provision of a 2m wide footway along the site's frontage with Lindley Moor Road. Currently only the north side of the road has a footpath, with there being none along the site frontage. This provision would provide an improvement to pedestrian movements, which welcomed, but also secure the adequate sightlines for proposed access. The provision of this footpath, to an adequate standard, may be secured via condition.

10.95 The applicant has demonstrated that the site could accommodate a refuse vehicle accessing and turning. As a commercial development, waste collection arrangements would be a private matter for the applicant to facilitate. Nonetheless, in the interest of ensuring appropriate arrangements for the storage and collection of waste are considered, a condition requiring these details be provided is recommended.

10.96 Considering car parking and servicing, the details submitted as part of the full application for unit P are acceptable. Adequate parking provision for staff would be provided while adequate space is provided so that larger vehicles could effectively access and exit the site in a forward gear. For the other units subject to the outline element of the proposal, their respective parking demand and arrangements would be considered separately at the reserved matters (layout and scale) stage.

Sustainable travel

10.97 Policy LP20 of the Kirklees Local Plan states:

> *'The council will support development proposals that can be served by alternative modes of transport such as public transport, cycling and walking and in the case of new residential development is located close to local facilities or incorporates opportunities for day-to-day activities on site and will accept that variations in opportunity for this will vary between larger and smaller settlements in the area'.*

10.98 As the site was allocated in the Local Plan for commercial (and residential) development, the potential accessibility of the site was assessed as part of the Local Plan adoption process. The site is within the urban environment (albeit on the edge), being within an acceptable walking distance of Lindley local centre (circa 810m), Birchcliffe local centre (circa 610m), and Salendine Nook (circa 1.1km), while being adjacent to the moderately dense urban environment of Oakes and Lindley. This allows for good connectivity for local workers.

10.99 Regarding pedestrian movements, as set out in paragraph 10.94 a 2m wide footway is proposed along the site frontage, which will support pedestrian movements. In addition, as part of the full application, links through the site towards Weatherhill Road and Crosland Road are proposed. These are welcomed and would promote pedestrian movements in and through the site; the delivery of these connections, to an appropriate standard, is recommended to be secured via condition.

10.100 Specific to Crosland Road, in the interest of promoting safe pedestrian movements in and around the site, the following improvements / updates are to be secured via condition:

- an assessment of the existing signalised junction of Lindley Moor Road/Crosland Road, to determine if an additional pedestrian phase can be added across to the site access and, should this be deemed workable, the implementation of such a change.
- the delivery of a 2m wide footway along the site's Crosland Road frontage (as part of a subsequent reserved matters phase).

These improvements would result in a coherent pedestrian environment that connects the site's proposed pedestrian access onto Crosland Road to the new footway on Lindley Moor Road and the footway on Crosland Road provided as part of the new residential development, while the lighting works (if feasible) would support pedestrian crossings at the Lindley Moor Road/Crosland Road junction.

10.101 PROW HUD/410/10 runs along the site's southern boundary, mostly outside of it but partly within. The proposal would only provide a pedestrian link onto the PROW at the same point as where it adjoins Weatherhill Road, however as the PROW simply links Crosland Road to Weatherhill Road, which the proposal would also do internally, there is deemed no need for a direct connection elsewhere within the site.

10.102 The route of the PROW would be unaffected by the proposal; however, due regard must be given to the amenity of the PROW. The portion of the PROW adjacent to, but not within, the site boundary roughly aligns with the element of the application subject to outline consideration. Based on the indicative layout, there are no fundamental concerns that the reserved matter details (i.e., the proximity of the buildings or landscaping adjacent to the PROW) would cause harm to the PROW, subject to a detailed assessment at the reserved matters application stage. Regarding unit P and the element of the proposal under full consideration, it is proposed to set the site's boundary wall back to increase the width of the PROW by 1.5m. This is a welcomed improvement that will make the PROW more attractive and usable, and may be secured via condition.

10.103 Regarding other methods of travel, opportunities for cycle improvement in the area (within the scope of this application) are limited. Nonetheless, the provision of cycle storage facilities per unit is recommended to be secured via condition, as is the provision of Electric Vehicle Charging Points. This is to promote alternative, low emission, methods of travel.

10.104 West Yorkshire Metro advises that a contribution of £10,000 be secured towards sustainable travel incentives to encourage the use of sustainable modes of transport. This would be put towards the installation of a Real Time Information battery at a nearby bus stop (stop ID 22783, on Weatherhill Road).

10.105 Notwithstanding the above measures, as the development includes over 1,000sqm, a Travel Plan is required. Whilst the applicant has submitted a draft Travel Plan, it lacks the level of detail expected for a full Travel Plan. Therefore, it is recommended that a fully detailed Travel Plan be secured via planning conditions with a contribution of £15,000 towards ongoing (5 years) monitoring to be secured within the S106.

10.106 The site is within a sustainable location. Furthermore, the proposal includes highway conditions and contributions that are expected to promote sustainable means of transport, as well as a contribution towards public bus infrastructure. Other conditions relating to cycle storage and EVCP are proposed. As such, the development is deemed to comply with the aims of policy LP20.

Highways, conclusion

10.107 Overall, it is concluded that the proposal is acceptable with regard to the matter of access and highway impact. Subject to relevant conditions and the planning obligations specified above, it has been demonstrated that the proposed development can accommodate sustainable modes of transport and be accessed effectively and safely by all users and that any significant impacts from the development on the transport network can be appropriately mitigated. The development would not result in a severe cumulative highway impact given the proposed mitigation. It would therefore comply with Policies LP20, LP21, and LP22 of the Kirklees Local Plan.

Drainage and flood risk

10.108 The NPPF sets out the responsibilities of Local Planning Authorities determining planning applications, including securing appropriate drainage, flood risk assessments taking climate change into account, and the application of the sequential approach (where necessary). Policies LP27 and LP28 of the Local Plan detail considerations for flood risk and drainage respectively.

10.109 As the site area exceeds 1ha a site-specific flood risk assessment has been required to support the application. The site is wholly within Flood Zone 1 and is therefore not considered to be at risk from fluvial (watercourse / ocean) flooding sources. As such, neither a sequential approach nor exemption test are necessary to inform the location of the development.

10.110 Considering pluvial (surface water) flooding, an indicative surface water drainage strategy has been submitted by the applicant. This, in principle, addresses both the full application portion of the development (unit P and the access road) and the remaining outline aspects of the proposal. The strategy would discharge attenuated surface water flows at the equivalent greenfield run-off rate from the new development, or 10.5l/s in this case. This would be achieved via several attenuation tanks across the site, with individual limits of 2.5l/s. This figure has been accepted by the LLFA and Yorkshire Water. Due regard has been given to the drainage hierarchy in identifying the water discharge point. Infiltration has been discounted due to the ground conditions, however an indirection connection to a watercourse, via requisition to public surface water sewer, has been identified as feasible. A more preferable route via third party land ownership has also been identified, but relies on the applicant coming to a private arrangement with the land owner. This may be explored further, with full details to be provided as part of the technical design, to be secured via condition, however it is reiterated that an adequate fall-back position has been found in case reasonable agreement cannot be reached on the third-party land.

10.111 The submitted strategy proposes the use of crate storage for attenuation. This is a cause for concern for officers, as crate storage has issues of long-term management and maintenance when compared to a traditional concert tank. While not fully ruling out the use of crate storage, there is considered a high bar for applicants to demonstrate their suitability and that their ongoing management, for the lifetime of the development, can be secured. Nonetheless, this is considered a matter which can be resolved at discharge of condition stage.

10.112 Foul water is to be discharged via an existing foul sewer on Weatherhill Road, which Yorkshire Water has not opposed.

10.113 As the submitted drainage strategy incorporates both full and outline aspects of the proposal, a set of conditions requiring full technical details of each phase's drainage strategy, to comply with the principles established as part of this application, would be needed. Such conditions are recommended by officers.

10.114 It is feasible that the various units on site would be sold to various parties. Given the potential for different land owners, the maintenance and management of the approved surface water drainage system (until formally adopted by the statutory undertaker) would need to be secured via a Section 106 agreement.

10.115 Flood routing for exceedance events has been considered. This demonstrates flood water flowing via the new carriageway towards Weatherhill Road and away from neighbouring dwellings and their gardens. For the southern boundary, which is shared with neighbouring properties, a land drain would be installed to redirect any flood water. These provisions are considered acceptable, and may be secured via conditions.

10.116 Details of temporary surface water drainage arrangements, during construction, are proposed to be secured via a condition.

10.117 Considering the above, subject to the proposed conditions and securing management and maintenance arrangements via the Section 106 agreement, the proposal is considered by officers and the LLFA to comply with the aims and objectives of Policies LP27, LP28 and LP29 of the Kirklees Local Plan.

Ecology

10.118 Local Plan Policy LP30 requires that planning decisions protect and enhance the biodiversity of Kirklees. Development proposals are therefore required to result in no significant loss or harm to biodiversity and to provide net biodiversity gains where opportunities exist.

10.119 The application is supported by an Ecological Impact Assessment (EcIA) and Preliminary Ecological Appraisal (PEA) which have been reviewed by K.C. Ecology. The submitted reports provide a comprehensive assessment of the site and lay out the potential impacts on ecological receptors, brought about by the proposed development. Overall, the site is of limited ecological value consisting of species poor modified grassland with limited opportunities for protected species, given the intense grazing regime currently undertaken at the site.

10.120 Given that schemes secured via outline permissions may be progressed over a longer period, it is not uncommon for conditions for re-assessments at reserved matters stage to be required. In this case, given the poor state of the site and the limited opportunity for enhanced ecology in the foreseeable future, no such re-survey work is deemed reasonable or necessary.

10.121 The development and operation of the site would not unduly harm local species, protected or otherwise. Nonetheless, construction can also cause impacts. A condition for a Construction Ecological Management Plan is recommended, to ensure construction activity is managed in a considerate way.

10.122 The above considers the proposal's direct impacts on local habitat and species. Policy also requires development to result in a net gain to local ecology, in this case a 10% gain using the DEFRA Metric. While large portions of the site are made at outline, landscaping has been applied for as a consideration and therefore allows for a detailed assessment on net gain.

10.123 The application's Biodiversity Net Gain metric calculates that post-development, 0.90 (or a 6.91% gain) habitat units may be provided on site, the delivery of which may be secured via condition (with appropriate regard to phasing). However, this falls below the target of 10% net gain by 0.4 habitat units. There are limited options to maximise the availability of habitat units within the site, and officers are satisfied that these have been considered and discounted. As such, off-setting will be required in order for the development to achieve a biodiversity net gain of 10%. A 0.4habitat unit shortfall amounts to an off-site commuted sum of £9,200 in order for the development to achieve a 10% biodiversity net gain, unless the applicant is able to find an alternative site in the vicinity where this could be delivered. This may be secured within the S106.

10.124 In summary the proposal would not unduly affect local habitats and, through contributions and on-site improvements, represent an ecological net gain. Furthermore, the proposal would have no significant impacts upon local species. Subject to the given conditions and securing the off-site ecological contribution, the proposal is considered to comply with the aims and objectives of LP30 of the Kirklees Local Plan.

Other matters

Air quality

10.125 An air quality impact assessment (AQIA) has been submitted as part of the application and has been reviewed by K.C. Environmental Health. The site is adjacent to the council's Air Quality Management Area 3 (Ainley Top) which is split between land to the south-east of Ainley Top (on Halifax road) and land to the north-west of Ainley Top (on Lindley Moor Road, north-east of the site).

10.126 For the operational phase detailed dispersion modelling using ADMS-Roads (V 5.0.1.3) was used to determine changes in pollutant concentrations at 16 sensitive receptor locations. The receptor locations were chosen as being in the vicinity of road links likely to be most affected by changes in traffic flows because of the development. Traffic data provided by Paragon Highways, in addition to data obtained from the Department for Transport (DfT) and monitoring data obtained by Kirklees Council was used in the model to predict changes in Nitrogen Dioxide (NO2), and particulate matter (PM10 and PM2.5).

10.127 The report concludes that all modelled pollutant concentrations at all sensitive receptors are predicted to be below the National Air Quality Objectives (NAQO). It goes on to state that overall, the road traffic emission impacts because of the proposed development are negligible and not significant in accordance with the Institute of Air Quality Management (IAQM) guidance.

10.128 Notwithstanding the above, in accordance with the West Yorkshire Low Emission Strategy (WYLES) - Technical Planning Guidance, a damage cost calculation has been provided to determine the amount (value) of mitigation required to offset the detrimental impact that the development would have on air quality. The calculation was undertaken in accordance with DEFRA guidance at the time of writing and provides a five-year exposure value to the sum of £55,604 to be used for site specific mitigation measures. No mitigation measures have been included in the report but may be secured via condition, along with the inclusion and retention of Electric Vehicle Charging Points per plot.

10.129 For the construction phase of the development, the AQIA acknowledged that dust pollution may be caused. This is not unusual and may be addressed via a dust mitigation strategy to be included within the Construction Environmental Management Plan (CEMP) recommended to be secured via condition.

10.130 Subject to the given condition, officers are satisfied that the proposal would not harm local air quality, nor would occupiers suffer from existing poor air quality, in accordance with Policy LP51 of the Kirklees Local Plan.

Contamination

10.131 The site is identified as being potentially contaminated. Therefore, the application is supported by a Phase 1 and 2 Geoenvironmental Risk Assessment and Remediation Strategy, which have been reviewed by K.C. Environmental Health.

10.132 K.C. Environmental Health considers the methodology and findings of the reports to be acceptable. While some sources of contamination have been identified, appropriate remediation to mitigate the impacts have been proposed. The delivery of the remediation strategy may be secured via condition, alongside a condition for a validation report to demonstrate the remediation has been successful. Subject to these conditions, officers are satisfied that the proposal complies with Policy LP53 of the Local Plan.

Coal legacy

10.133 The site is within the defined High-Risk Coal Zone. Therefore, the application is supported by a Coal Mining Risk Assessment which has been reviewed by the Coal Authority. In summary, the Coal Authority is satisfied that the investigations undertaken have reasonably demonstrated that the site is, or can be made, safe and stable for development, with no specific planning conditions sought. Further more detailed considerations of ground conditions and/or foundation design may be required as part of any subsequent building regulations application, but this falls outside the remit of planning. Accordingly, officers are satisfied that the site's coal legacy raises no conflict with policy LP53 of the KLP.

Crime Mitigation

10.134 The West Yorkshire Police Designing Out Crime Officer has made a number of comments and recommendations, particularly with regard to security features and boundary treatments. All of the comments made are advisory and have been referred to the applicant, with many incorporated into the proposal during the amendments. Initial concerns were held over the inclusion of cafe / fast food uses, but these have since been omitted.

10.135 A condition is proposed for crime mitigation details to be provided, per phase. This will require consideration of the site's boundary, finding an appropriate balance between an attractive design which does not prejudice amenity with security being adjacent to a public area, and consideration of the security for the bike / car parking area, including lighting.

Employment and skills

10.136 A number of quality and skilled jobs, including apprenticeships, would be expected at the application site. Details of these would be considered further at Reserved Matters stage and/or when occupants are identified, having regard to Local Plan Policy LP9. Opportunities for local employment should be maximised. Local Plan policy LP9 states that the council will work with partners to accelerate economic growth through the development of skilled and flexible communities and workforce in order to underpin future economic growth to deliver the Kirklees Economic Strategy. It adds:

> *Wherever possible, proposals for new development will be strongly encouraged to contribute to the creation of local employment opportunities within the district with the aim of increasing wage levels and to support growth in the overall proportion of the districts' residents in education or training. Applicants should reach an agreement with the council about measures to achieve this, which could include: provision of specific training and apprenticeships that are related to the proposed development or support other agreed priorities for improving skills and education in Kirklees or the creation of conditions to support a higher performing workforce, increasing productivity and the in-work progression of employees. The Council will therefore seek to secure an agreed training or apprenticeship programme with applicants [where specified thresholds are met by proposed developments].*

10.137 On 21/09/2022, Cabinet approved a Social Value Policy which defines social value as:

> *…the broad set of economic, social and environmental benefits that may be delivered in addition to the original goods or service being provided. They may include jobs and training, support of local businesses and community organisations, and to our environment. These benefits may be delivered through procurement, our employment practices, our grants and investments or other processes*.

10.138 The Social Value Policy confirms that the council will consider social value in relation to planning and development, particularly major planning applications. The council will negotiate social value obligations for all major developments,

within the existing Local Plan policy framework and subject to meeting legal tests of the Section 106 process, and will use Section 106 agreements and other levers to ensure commitments are achieved.

10.139 The applicant has not yet identified developer partners or final occupiers for the proposed units; however, it is recommended that provisions be secured (via a Section 106 agreement) requiring the applicant to, in turn, require those future partners to actively participate and engage with the council in delivering social value measures of benefit to the people of Kirklees, and in particular those residents in the areas surrounding the application site. This engagement may take the form of entering into an appropriate Employment and Skills Agreement, to include provision of training and apprenticeship programmes.

Mineral Extraction

10.140 The site is within a wider mineral safeguarding area (SCR with Sandstone and/or Clay and Shale). Local Plan policy LP38 therefore applies. This states that surface development at the application site will only be permitted where it has been demonstrated that certain criteria apply.

10.141 The applicant has made no commentary or assessment on this subject. However, officers note that policy LP38's requirement does not apply on site's 'there is an overriding need for the development'. As land allocated for development, this is considered to be the case for the site. Furthermore, it is not considered practical for this site to include mineral extraction, given the proximity of residential properties (with the site's narrow shape and steepness limiting the feasibility of appropriate separation distances and bunds. Accordingly, it is considered that the proposal complies with the aims and objectives of policy LP38 regarding mineral safeguarding issues.

<u>Representations</u>

10.142 Most matters raised via the representation period have been addressed elsewhere within this report. The following are matters not previously directly addressed.

General

- Development in the Green Belt should not be permitted. Development should be focused on brownfield land.

Response: The site is not Green Belt land and neither local or national policy establishes a requirement for brownfield land to be developed prior to greenfield.

- This land (Lindley Moor) was gifted to the council 'to be preserved as common land for the use of local residents'.

Response: Officers have not verified this claim. Regardless this would be a private legal matter and outside the remit of planning.

- The proposal does not respond to local needs. Local residents need more GP services and school places, not industrial developments.

Response: The site is allocated for mixed-use commercial or residential, although the residential indicative capacity has been reached, indicating a commercial expectation. Furthermore, officers must assess the scheme based on that submitted and not alternative options.

- The application includes inadequate details for residents to comment on and the consultation period has been inadequate and falls below statutory standards.

Response: Officers consider that the public representation period complied with all statutory requirements.

- The Kirklees Way passes directly through this area and covering the area in buildings and their ensuing traffic would be detrimental to people who wish to use the paths.

Response: The Kirklees Way does run along HUD/410/10. The proposal's impact on the PROW has been considered and found to be acceptable: this would be applicable to the route as part of the Kirklees Way too.

- The proposal will affect local house prices.

Response: This is not a material planning consideration.

Amenity

- The development will cause odour pollution and attract vermin to the area.

Response: An odour impact assessment is to be secured via condition for the restaurant use. Regarding vermin, this is speculation. There is no intrinsic reason why such issues would occur and should they, it would be subject to separate control.

- The large areas of car parking and proposed uses will attract crime and anti-social behaviour, both to the site and wider area.

Response: A condition for crime mitigation measures, per unit, is recommended.

11.0 CONCLUSION

11.1 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.

11.2 The application site is the last part of a Mixed-Use allocation intended for employment and residential use to be developed. The residential use has been achieved elsewhere in the allocation. The proposal, along with the employment development approved elsewhere on the allocation, would fall below the indicative floor space expectations of the Local Plan, however as set out within the report, this is not considered a cause for concern. Overall, the proposal would represent an effective and efficient use of a Local Plan allocation and would promote local employment, which is welcomed. As the

proposal includes a main town centre use, due regard has been given to the impact on nearby local centres, which has been concluded to be acceptable. Accordingly, the principle of the development is found to be acceptable.

11.3 The proposal is a hybrid application, including elements seeking 'full' planning permission and others seeking 'outline', with all matters reserved. For both elements of the proposal due regard has been given (in so far as it is feasible for the outline elements) to the relevant material planning considerations, such as the development's potential impacts on urban design, residential amenity, ecology, highways, and drainage, and consideration of whether any prohibitive reasons would prevent acceptable details coming forward at reserved matters stage. No issues have been identified and the proposal is deemed to comply with the relevant local and national policies.

11.4 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, subject to conditions and planning obligations to be secured via a Section 106 agreement.

12.0 CONDITIONS

The following is a summary list. The full wording of conditions, including any amendments/additions, is to be delegated to the Head of Planning and Development. As a hybrid application, careful application of the conditions, between the full, outline, and shared elements of the proposal would be required. The following is therefore reiterated to be a summary and subject to change:

Full Permission

1. 3 years to commence development
2. development to be done in accordance with plans
3. technical details of road and access (including footpaths)
4. Solar panels to be provided
5. material samples to be provided and approved.
6. remove PD rights for alterations (i.e., new windows) on south elevation
7. Internal, external, and plant noise mitigation to be implemented (subject to update).
8. Submitted finished floor levels to be adhered to.
9. External lighting to be as per submitted plans
10. Crime mitigation measures to be submitted and approved.
11. Drainage strategy to be done in accordance with FRA
12. footpath on frontage to Lindley Moor Road to be provided.
13. Site southern boundary wall to be set back 1.5m to widen PROW, with technical details to be provided.
14. Landscaping strategy, including management and maintenance arrangements, to be submitted and approved.
15. Cycle facilities as proposed to be provided.

Outline Permission

1. 3 years for RM to be submitted, 2 years for RM dev to be commenced
2. development to be done in accordance with plans
3. Restaurant to be E(b) use only.
4. Limit on retail floor space of unit D, Da and E's trade counter.
5. Each RM phase to include a Climate Change Statement
6. Floor space not to exceed Area Schedule
7. Each phase to have its own Heritage Impact Assessment
8. Crime mitigation measures per phase
9. Lighting strategy to be submitted per phase.
10. Restaurant RM to include an odour assessment.
11. Lighting strategy per RM phase
12. Noise Impact Assessment, to include hours of operation, per RM phase
13. Noise limitation of external plant per unit.
14. Details of Layout, per phase, to include updated drainage strategy complying with indicative strategy and flood routing from outline
15. Details of layout to include cycle facilities.

Shared

1. Air quality mitigation measures including EVCP, prorated based on floor space to the identified value, to be detailed and implemented.
2. Construction Environmental Management Plan per phase
3. Construction Ecological Management Plan per phase
4. Biodiversity Management Enhancement Plan per phase
5. Temporary surface water during construction per phase
6. Development to done in accordance with remediation
7. Validation report to be submitted per phase.
8. Waste storage and collection details to be provided per phase

Note: Outlining concerns with layout of unit F.
Note: Recommended hours of construction

Background Papers

Application and history files

Available at: https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022%2f91477

Certificate of Ownership

Certificate A signed.