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WALSINGHAM PLANNING

SPECIALIST PLANNING & DEVELOPMENT CONSULTANTS

Statement of Case

On Behalf of Muller Property Group

Land Adjacent to 21 Thomas Street, Lindley

JUNE 2023

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CONTENTS

1	INTRODUCTION.....	1
2	FACTUAL BACKGROUND.....	3
	(A) DESCRIPTION OF THE SITE.....	3
	(B) THE SURROUNDING AREA.....	3
	(C) PLANNING HISTORY	4
3	THE APPEAL PROPOSAL.....	6
	(A) OUTLINE OF THE SCHEME.....	6
	(B) PROPOSED ACCESS ARRANGEMENTS	6
	(C) APPLICATION SUBMISSION	8
	(D) DETERMINATION OF THE APPLICATION.....	8
	(E) APPEAL DOCUMENTATION.....	11
4	PLANNING POLICY CONTEXT	13
	(A) THE DEVELOPMENT PLAN	13
	(B) OTHER MATERIAL CONSIDERATIONS.....	17
5	THE APPEAL CASE.....	20
	(A) REASON FOR REFUSAL 1: THE DEVELOPMENT PLAN.....	20
	(B) REASON FOR REFUSAL 2: SITE ACCESS AND SERVICING.....	21
	(C) REASON FOR REFUSAL 3: OTHER MATERIAL CONSIDERATIONS.....	29
6	OTHER THIRD PARTY ISSUES.....	30
	(A) TREES.....	30
	(B) DESIGN, APPEARANCE AND OVER-LOOKING.....	31
	(C) CAR PARKING	31
	(D) TRAFFIC FLOW	32
	(E) NEED FOR A CARE HOME.....	33
7	OVERALL ASSESSMENT OF THE APPEAL PROPOSALS	34
8	SUMMARY AND CONCLUSIONS	36

APPENDICES

- APPENDIX 1 EMAIL CORRESPONDENCE FROM WALSINGHAM PLANNING TO THE CASE OFFICER (DATED 5TH JANUARY, 17TH JANUARY AND 3RD FEBRUARY 2023)
- APPENDIX 2 COVERING EMAIL FROM WALSINGHAM PLANNING (3RD MARCH 2023), WITH WRITTEN OPINION OF PIERS RILEY-SMITH (2ND MARCH 2023)
- APPENDIX 3 AUTOMATIC TRAFFIC COUNT DATA (MARCH / APRIL 2023)
- APPENDIX 4 VISIBILITY AT SITE ACCESS (REF. I52986-001 REV A)
- APPENDIX 5 SWEPT PATH ANALYSIS (REF. I52986-002 REV A AND I52986-003 REV A)

I INTRODUCTION

- I.1 This Statement of Case has been submitted on behalf of Muller Property Group (Muller, the Appellant), following refusal of outline planning permission **2022/60/92194/W** by Kirklees Council on 17th March 2023.
- I.2 The appeal relates to an outline proposal for the erection of a new care home (Use Class C2), with up to 60 bedrooms, with all matters reserved except for access.
- I.3 The appeal site comprises vacant previously-developed land, within the residential area of Lindley. The site was formerly occupied by a children's home, but has been vacant now for many years. The appeal scheme will secure the site's redevelopment and will deliver a high-quality care home, for which there is an identified local need. The Council agrees that the appeal proposal represents a sustainable form of development, and accepts the principle of the proposed development.
- I.4 The outline application was, however, refused in March 2023 for reasons relating solely to the site's proposed servicing and access arrangements. Specifically, the Decision Notice suggests that the site access does not provide a safe means of access for all road users (including emergency and servicing/delivery vehicles); that the proposed visibility splays at the Brian Street entrance would be detrimentally affected by the prevalence of on-street parking; and that the proposed servicing arrangements to the north of the site are inadequate.
- I.5 It is the Appellant's case that the appeal scheme provides appropriate site access and servicing arrangements, with safe access in place for all users of the site. It is relevant that the access arrangements have been suitable historically for comparable uses on the site, with no recorded incidents or accidents, and that road traffic speeds on the roads surrounding the site are very low, reflecting its built-up neighbourhood location.
- I.6 It is also important to highlight from the outset, that the Council has raised no issue with any other element of the application scheme, which will deliver a new care home on a sustainable, accessible site, within the residential area of Lindley. With regards to third parties, we note that - during the application's determination - five letters of objection were received from members of the public, and these focus primarily on matters relating to car parking, which we will also address in this Statement.

1.7 We have requested that the appeal be heard via a planning inquiry, where evidence will be presented on planning matters and highways matters. This will enable proper technical examination of the highway issues raised by the LPA and a thorough planning balance exercise to be reviewed by the appointed Inspector. The scope of the evidence is outlined in this Statement of Case.

1.8 Our Statement of Case is structured as follows:

- **Section 2** sets out the factual background, including a description of the appeal site and its surroundings, and its relevant planning history;
- **Section 3** summarises the appeal proposal and its background;
- **Section 4** summarises the relevant planning policy context;
- **Section 5** sets out our specific grounds of appeal, in relation to the reasons for refusal;
- **Section 6** considers other planning matters, which have been raised by third parties;
- **Section 7** provides our assessment of the appeal proposal as a whole, including our appraisal of the planning balance; and
- **Section 8** contains our summary and conclusions.

2 FACTUAL BACKGROUND

(A) DESCRIPTION OF THE SITE

- 2.1 The appeal site comprises a 0.27 ha parcel of land, which is located between Thomas Street, Thorncliffe Street and Brian Street, in Lindley, Huddersfield. The site is of regular shape, and comprises vacant, previously-developed land.
- 2.2 Until 2002, the land accommodated a children's home (Use Class C2). Once vacated, the building was utilised as offices, but these were demolished in around 2013. The cleared site has been vacant and derelict for around 10 years, and it is currently enclosed on all sides by herras fencing.
- 2.3 The northern boundary of the site fronts Thomas Street, Thorncliffe Street lies to the east of the site, and Brian Street runs to the south. A footpath runs along the western boundary of the site, adjacent to the gable ends of 50 Brian Street and 55 Thomas Street, and this is a public right of way (outside the site boundary).
- 2.4 The site currently benefits from two vehicular access points onto Brian Street, incorporating dropped kerb pedestrian crossings at the bell mouths, with tactile paving. The site also currently has a vehicle access onto Thomas Street to the north, which comprises a dropped kerb footpath crossing.
- 2.5 There are a number of trees on the site, mainly sited along the western boundary. The majority of the trees are protected by two group Tree Preservation Orders (TPO No. 12/12 G1 and G2).
- 2.6 The site is not subject to any specific environmental or heritage constraints. There are no statutory listed buildings on or within the vicinity of the site, and it is not located within a Conservation Area. The site is located within Flood Risk Zone 1 and is at low risk of flooding from tidal and fluvial sources.

(B) THE SURROUNDING AREA

- 2.7 The vacant, previously-developed plot is located within the established built-up area of Lindley. The site is located within a predominantly residential neighbourhood, and it is surrounded on all sides by existing housing. The existing housing comprises two-storey terraced and semi-detached properties, but there are also some three-storey flats on Brian Street. Notably,

there is also a doctor's surgery located directly to the north of the site, off Thomas Street (Lindley Village Surgery).

- 2.8 The site is also located very close to the shops and services of Lindley District Centre, which is located less than 100m to the east of the site. The main shopping street (Lidget Street) includes a library, restaurants and coffee shops, an opticians and pharmacy, hair and beauty salons, a bookshop, and grocery stores, which are all within walking distance of the site.
- 2.9 The site is sustainably located and it also benefits from easy access to public transport facilities. A bus stop is located immediately adjacent to the site, on Thorncliffe Street, which provides regular services to Lindley, Halifax, Meltham and Dalton. As such, staff and visitors to the care home will have a choice of sustainable travel options, which will reduce the need to travel by car.

(C) PLANNING HISTORY

- 2.10 The former use of the site was as a children's home (Use Class C2), which ceased operations in 2002, and the buildings were demolished in around 2013.
- 2.11 The site has also been the subject of the following planning applications:
- **2002/91493:** Change of use from children's home to office accommodation with parking – Granted;
 - **2010/93042:** Change of Use from C2 (Former Care Home) to D1 (Health Centre) – Withdrawn;
 - **2010/93040:** Outline application for erection of 2 storey 30 bed care home – Withdrawn;
 - **2010/93155:** Outline application for erection of 12 Semi-Detached dwelling units – Withdrawn;
 - **2011/90047:** Demolition of existing building and erection of 12 no. 3-Bed 2-Storey dwellings and associated car parking – Withdrawn;
 - **2012/90951:** Outline application for erection of 12 semi-detached dwellings – Granted;
 - **2013/92811:** Prior notification for demolition of redundant council offices - Demolition Details Approved;
 - **2019/90588:** Erection of portable building for use as temporary pharmacy- Conditional Full Permission;

- **2020/90149:** Variation of condition 1 (expiration period) on previous permission 2019/90588 for erection of portable building for use as temporary pharmacy - Removal or modification of condition(s).
- 2.12 The appeal scheme (**ref. 2022/60/92194/W**), which was an outline application for the erection of care home (Use Class C2) of up to 60 beds with associated access, was refused permission in March 2023. The application was refused for three reasons, which we discuss in **Section 3** below.
- 2.13 Finally, without prejudice to our appeal case, the Appellant has submitted two further planning applications relating to the site. The first is a resubmission of the refused appeal scheme, and proposes alternative servicing arrangements (although the arrangements proposed as part of the appeal scheme are also considered to be entirely satisfactory and suitable for the proposed use). The resubmitted outline application has been given reference **2023/91344**.
- 2.14 We have also submitted a full planning application for the erection of a 60-bedroom care home on the site, which provides full details of the proposed appearance, layout, scale and landscaping of the scheme, as well as the proposed access arrangements (ref. **2023/91408**).

3 THE APPEAL PROPOSAL

(A) OUTLINE OF THE SCHEME

- 3.2 The appeal scheme seeks outline planning permission for the redevelopment of the site and construction of a care home falling within Use Class C2, with all matters reserved except access. It is proposed that the care home will have up to 60 bedrooms.
- 3.3 The Appellant, Muller Property Group, is an experienced provider of care home developments. Although there is no named end user for the care home at this stage, Muller has been speaking to a number of operators and the proposals have been drawn up to meet their operational requirements.
- 3.4 The indicative plans submitted with the appeal scheme illustrate how a new care home building can be accommodated on the site, and can be laid out to provide a high standard of provision, to include recreational spaces for residents on all floors, including lounges, dining rooms, cinema, activity rooms, a hair salon, and high-quality secured landscaped gardens for residents. Back of house facilities will include office and staff areas. Full-time on-site nursing care will be provided in line with the Care Quality Commission standards.
- 3.5 Final details of the scale, layout and appearance of the building will be secured at the Reserved Matters stage.
- 3.6 The illustrative site plans show the footprint and position within the site of the building, allowing for landscaping, gardens and planting around the building and hard surfacing including vehicle parking along the western boundary.
- 3.7 The appeal proposal will facilitate the re-use of a sustainable and accessible site, and will enhance the local streetscene through the removal of a vacant corner plot. It is envisaged that the proposal will be of high-quality design that is residential in scale and character, and these matters will be considered further at reserved matters stage.

(B) PROPOSED ACCESS ARRANGEMENTS

- 3.8 Vehicular access for staff and visitors is proposed from an improved site access, which will be located on Brian Street towards the western end of the site frontage, in the vicinity of one of the former accesses to the site. A dropped kerb pedestrian crossing will be provided at the

site access bell mouth and will incorporate tactile paving. The new site access will be wider than the existing access to the site in this location.

- 3.9 Visibility for the site access has been calculated based on the recorded vehicle speeds on the local road network. The 85th percentile speeds have been used to calculate visibility splays based on guidance contained in Manual for Streets.
- 3.10 The development will reduce the number of vehicular site accesses from 3 to 1, with the existing access on Brian Street to the east of the site frontage and the access onto Thomas Street becoming redundant. The redundant accesses will be permanently removed and reinstated as footway within the highway boundary, which will enhance the pedestrian environment around the site, and provide new opportunities for on-street parking for local residents.
- 3.11 The development proposes a total of 21 car parking spaces, which is within the maximum number of spaces based on local authority guidelines (which would equate to 22 spaces). The level of parking proposed is therefore within the maximum limit, and does not represent an overprovision. The level of parking proposed is considered to be operationally sustainable, given the accessibility of the site by a range of modes of transport.
- 3.12 Two of the parking spaces will be mobility spaces, and two of the spaces will offer electric vehicle charging facilities, with a further two spaces being enabled for future retrofitting of electric vehicle charging infrastructure. Motorcycle parking is proposed and 1 long-stay space will be provided with a secure anchor point.
- 3.13 The main pedestrian access to the building will be on the western elevation facing the car park, with pedestrian footpath routes within the site which connect to Brian Street. Cyclist access to the site will also be via the all-purpose access on Brian Street, leading to a dedicated secure communal cycle store, which would be located on the western side of the building.
- 3.14 An external bin store will be located on the west side of the building, and directly adjacent to Thomas Street. Refuse collection is proposed to take place kerbside, from Thomas Street, and a footpath is provided within the site to enable convenient access to the bin store, with a dropped kerb.

(C) APPLICATION SUBMISSION

3.15 The outline application was submitted to the Council on 22nd June 2022, and was given application reference **2022/60/92194/W**.

3.16 The application comprised the following package of plans and technical reports:

- Application Plans:
 - Site Location Plan (ref. 9-1 Rev A);
 - Illustrative Proposed Site Plan (ref. 9-2 Rev G), which was subsequently superseded by ref. 9-2 Rev H (which amended the proposed siting of the bin store and cycle parking, to ensure ease of access to the bin store);
 - Illustrative Proposed Ground Floor Plan (ref. 00-1 Rev A);
 - Illustrative Proposed First Floor Plan (ref. 00-2 Rev A);
 - Illustrative Proposed Second Floor Plan (ref. 00-3 Rev A);
 - Illustrative Proposed Roof Plan (ref. 27-1 Rev A); and
 - Proposed Site Access (ref. 300829-002).
- Application Documents:
 - Arboricultural Report;
 - Design and Access Statement;
 - Care Home Need Assessment;
 - Preliminary Ecological Appraisal;
 - Flood Risk Assessment;
 - Geo-Environmental Ground Investigation Report;
 - Planning Statement;
 - Transport Assessment;
 - Travel Plan; and
 - Utilities Study.

(D) DETERMINATION OF THE APPLICATION

3.17 The Council took nine months to consider the application and make a determination. During this period there was limited public interest in the planning application. The local ward councillors did not comment on the application, and only 5 members of the public made

representations (4 in objection and 1 as a general comment). We address the concerns raised in these representations in **Section 6** below.

- 3.18 Consultation responses were also received from various statutory consultees, and all either declined to make comment, or raised no objection subject to the imposition of recommended planning conditions. The only exception to this was one objection that was received from Kirklees Highways Development Management department.
- 3.19 In the objection letter from Highways (dated 28th November 2022), the Officer observes that visibility from the site access may be reduced due to on-street parking, and that servicing on Thomas Street may cause complaints when the site comes into operation. Interestingly, the consultation response does not refer specifically to access to the site by emergency vehicles, although this does form part of the final reason for refusal. The Highways Officer recommended a planning condition requiring a Traffic Regulation Order to be put in place (to introduce waiting restrictions within the visibility splays), and for the applicant to come up with alternative servicing arrangements.
- 3.20 Following advice from Sanderson Associates, Walsingham Planning responded to the comments from Highways, in an email to the Case Officer dated 5th January 2023, and followed-up with a further email on 17th January 2023 (presented in **Appendix I** for ease of reference). In the response, Walsingham Planning put forward the case that parking in visibility splays in built-up areas is a common occurrence, and that there are circumstances, where speeds are low, where some encroachment is acceptable (as set out in Manual for Streets 2). The argument was made that there is no justification for a Traffic Regulation Order in this case, given the site-specific circumstances. Further details regarding the proposed refuse servicing arrangements were also provided to the Council, with an explanation that the servicing will mirror historic arrangements for the previous uses on the site.
- 3.21 A further consultation response was received from the Council's Highways Officer on 1st February 2023. Without further elaboration, the original concerns were re-stated, and refusal recommended by the Highways Officer.
- 3.22 Further advice was obtained from Sanderson Associates, which informed a third email from Walsingham Planning to the Case Officer, sent on 3rd February 2023 (see **Appendix I**). This email set out further reasoning particularly in relation to on-street servicing. The merits of the application were highlighted, and the email encourages the Planning Officer to adjudicate and form a balanced judgement on the application.

- 3.23 At this point, the applicant sought advice from Counsel regarding the strength of the highways arguments, and the position adopted by the Highways Officer and Case Officer. A Written Opinion was prepared by Piers Riley-Smith, of Kings Chambers, on 2nd March 2023, and was forwarded to the Council in an email dated 3rd March 2023. Walsingham Planning's email to the Case Officer, alongside the full Written Opinion is set out in **Appendix 2**, for reference.
- 3.24 In summary, Counsel observes that the Highways Officers concerns are not backed up by policy, and there is no evidence that the issues raised would cause an “*unacceptable impact on highway safety*” or that “*the residual cumulative impacts on the road network would be severe*” (as per paragraph 111 of NPPF). Counsel also notes that the Planning Officer appears to have ignored all of the planning benefits that the proposal would bring, and has adopted the Highway Officer's concerns without explaining how they relate to policy, contrary to the provisions of Section 38(6) of the Planning and Compulsory Purchase Act. It is Counsel's considered view that the proposal does not justify a refusal, based on local or national policy, and that several of the Highway Officer's concerns are factually wrong.
- 3.25 The Case Officer did not change his view in light of this advice, and the application was refused planning permission on 17th March, under delegated powers. The application was refused for three reasons, which can be summarised as follows:
1. The proposed development is considered not to be in accordance with the requirements of the Development Plan, and it has been concluded that there are no material considerations which would justify or outweigh the non-compliance with the relevant policies of the Development Plan;
 2. The proposed site access arrangements do not provide a safe means of access to and from the site for all road users, including emergency and servicing/delivery vehicles, as the proposed visibility splays at the Brian Street site entrance would be significantly detrimentally affected by the prevalence of on-street parking. The servicing/delivery arrangements to the north of the site are inadequate given the requirement to cross an existing layby and the full height kerb to access the site. No demonstrably feasible servicing / delivery access arrangements have been submitted which would not prejudice the free flow of traffic on the site's surrounding streets. Without the provision of safe visibility splays and the provision of on-street car parking mitigation measures on Brian Street and Thomas Street (such as waiting time restrictions) it is the considered view of Officers and Kirklees Council Highways Development

Management that the proposal would lead to an unacceptable impact on highway safety and is therefore contrary to Policy LP21 of the adopted Kirklees Local Plan, Highway Design Guide SPD, and the NPPF (paragraph 111).

3. There are no material considerations advanced in favour of the development that would outweigh the identified conflict with the Development Plan.

3.26 It is clear that the Council's main concern with the application relates to access and servicing matters, and these issues are summarised in Reason for Refusal 2, and are addressed in this Statement of Case.

3.27 Whilst the Council suggests in Reason for Refusal 1 that the application does not comply with the Development Plan, we note that only Policy LP21 is mentioned in the Decision Notice, and we assume that the alleged conflict is with Policy LP21 only. Reason for Refusal 3 states that there are no material considerations which outweigh the conflict with the Development Plan. As we explain in **Section 7** below, the application proposal will deliver many positive benefits, through the regeneration of a vacant site; the erection of a high-quality care home for which there is a need; the creation of around 48 new jobs; and the environmental enhancement of the land.

(E) APPEAL DOCUMENTATION

3.28 In presenting evidence on the case, reference will be made to the following documents and correspondence:

- The planning application drawings and documents (as listed in paragraph 3.16 above);
- The comments on the application provided by the Highways Officer (Mark Berry), dated 28th November 2022 and 1st February 2023;
- Correspondence between the Case Officer and the Appellant (as presented in Appendix 1 of this Statement);
- The Written Opinion of Piers Riley-Smith, of Kings Chambers, dated 2nd March 2023 (as presented in Appendix 2 of this Statement);
- Automatic Traffic Count Data, March / April 2023 (as presented in Appendix 3 of this Statement);
- Plan showing Visibility at Site Access (ref. 152986-001 Rev a) (as presented in Appendix 4 of this Statement); and

- Swept Path Analysis (ref. I52986-002 rev a and I52986-003 rev a) (as presented in Appendix 5 of this Statement).

4 PLANNING POLICY CONTEXT

- 4.1 Planning applications must be determined in accordance with the Development Plan, unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act).
- 4.2 In this case, the Development Plan comprises the adopted **Kirklees Local Plan (February 2019)** and the **Kirklees Local Plan Allocations and Designations (February 2019)**. The Council identifies conflict with only one policy – **Local Plan Policy LP21** – in its Decision Notice, and we focus on this policy below.
- 4.3 It is also important to outline those matters of **national planning policy** that are considered to be of material relevance to the appeal proposal. The Council also has an adopted **Highway Design Guide SPD (November 2019)**, which is a material consideration in the case.

(A) THE DEVELOPMENT PLAN

Kirklees Local Plan (February 2019)

- 4.4 The Local Plan contains no specific policies relating to care home development. However, the following policies are relevant to the issues raised by the site's redevelopment.
- 4.5 **Policy LP1** 'Presumption in favour of sustainable development' states: "*When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework*" [our emphasis].
- 4.6 **Policy LP2** 'Place shaping' requires all development proposals to build on the strengths, opportunities and help address challenges identified in the Local Plan, in order to protect and enhance the qualities which contribute to the character of these places.
- 4.7 **Policy LP3** 'Location of new development' states: "*Development proposals will be required to reflect the Spatial Development Strategy, Policy LP1 Presumption in Favour of Sustainable Development and Policy LP2 Place Shaping*". In practice, this means:

"(1) Development should reflect:

a. the settlement's size and function; and

b. place shaping strengths, opportunities and challenges for growth; and

c. spatial priorities for urban renaissance and regeneration; and

d. the need to provide for new homes and jobs;

2) Development will be permitted where it supports the delivery of housing and employment growth in a sustainable way, taking account of the following criteria:

a. delivering the housing and job requirements set out in the Local Plan;

b. the need to maintain a supply of specific deliverable sites, in accordance with national policy and enabling the delivery of allocations set out in the Local Plan or in Neighbourhood Plans;

c. ensuring that opportunities for development on brownfield (previously developed) sites are realised early in the plan, subject to maintaining a five-year supply of housing land and to delivering the overall housing and jobs requirements;

d. ensuring delivery of housing and jobs in smaller settlements to meet local housing and employment needs;

e. ensuring that proposals have regard to connecting links to existing green and blue infrastructure networks;

f. co-ordinating housing and employment land delivery with the provision of new infrastructure.

g. providing access to a range of transport choices and access to local services.”

4.8 Policy LP7 ‘Efficient and effective use of land and buildings’ promotes the best use of land and buildings and states that proposals:

“a. should encourage the efficient use of previously developed land in sustainable locations provided that it is not of high environmental value;

b. should encourage the reuse or adaptation of vacant or underused properties;

c. should give priority to despoiled, degraded, derelict and contaminated land provided that it is not of high environmental value;

d. will allow for access to adjoining undeveloped land so it may subsequently be developed.

[our emphasis]”

4.9 **Policy LP20** ‘Sustainable travel’ states: *“Proposals for new development shall be designed to encourage sustainable modes of travel and demonstrate how links have been utilised to encourage connectivity. Proposals will be required to facilitate the needs of the following user hierarchy: a. pedestrians b. cyclists c. public transport d. private vehicles.”*

4.10 **Policy LP21** ‘Highways and access’, is the only policy that is specifically referenced in the Decision Notice. The policy explains that new development *“will 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”*. The policy adds that proposals should provide adequate information and mitigation measures to: *“avoid a detrimental impact on highway safety and the local highway network”*. The policy then goes on to list 7 criteria that all proposals should meet, which are as follows:

- a. ensure the safe and efficient flow of traffic within the development and on the surrounding highway network;
- b. where needed, provide new infrastructure or improvements on or off site to ensure safe access from the highway network for pedestrians, cyclists, public transport users and private vehicles;
- c. be accompanied by a supporting Transport Assessment or Transport Statement where the development would generate significant trip generation, providing detail as to the impact on highway safety, air quality, noise and light restrictions;
- d. take into account changes in site levels and topography to ensure the development can be accessed easily and safely by all sections of the community and by different modes of transport;
- e. take into account the features of surrounding roads and footpaths and provide adequate layout and visibility to allow the development to be accessed safely;
- f. take into account access for emergency, service and refuse collection vehicles; and
- g. provide on-site safe, secure and convenient cycle parking / storage facilities to encourage sustainable travel modes.

4.11 The policy justification text for Policy LP21 explains that applicants should follow best practice guidance, as set out in the Department for Transport’s ‘Manual for Streets’ 2007. Paragraph 10.79 of the Local Plan explains that: *“This document continues to provide useful guidance on how*

to achieve accessible and well-designed streets and the Council will encourage its use within development proposals”.

- 4.12 **Policy LP22** ‘Parking’ explains that car parking provision in new developments will be determined by the availability of public transport; the accessibility of the site; location of the development; local car ownership levels; and the type, mix and use of the development. Furthermore, the policy advises that new developments will incorporate flexibly designed minimum parking spaces for private cars, considering a range of solutions, to provide the most efficient arrangement of safe, secure, convenient and visually unobtrusive car parking within the site including a mix of on and off-street parking in accordance with current guidance.
- 4.13 **Policy LP24** ‘Design’ requires proposals to promote good design and includes a number of criteria including how form, scale and layout should respect and enhance the character of the townscape, heritage assets and landscape and provide a high quality of amenity for neighbouring and future occupiers. This design policy also sets out a requirement for sustainability, proportionate to the proposal, including use of innovative construction materials and techniques and use of renewable energy.
- 4.14 **Policy LP33** ‘Trees’ states: *“The Council will not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity. Proposals should normally retain any valuable or important trees where they make a contribution to public amenity, the distinctiveness of a specific location or contribute to the environment”.* Where tree loss is deemed to be acceptable, developers will be required to submit a detailed mitigation scheme.
- 4.15 **Policy LP53** ‘Contaminated and unstable land’ states that: *“Development on land that is unstable, currently contaminated or suspected of being contaminated due to its previous history or geology, or that will potentially become contaminated as a result of the development, will require the submission of an appropriate contamination assessment and/or land instability risk assessment”.*

Kirklees Local Plan Allocations and Designations (February 2019)

- 4.16 The appeal site is shown as ‘white land’ on the Policies Map that accompanies the Local Plan and is not allocated for any specific use. As such, the Kirklees Local Plan Allocations and Designations contains no policies of relevance to the appeal scheme.

(B) OTHER MATERIAL CONSIDERATIONS

National Planning Policy Framework (NPPF, 2021)

- 4.17 The National Planning Policy Framework (NPPF) sets out the Government’s intention for the planning system to contribute to the achievement of sustainable development, performing an economic, social and environmental role.
- 4.18 At the heart of the NPPF is a presumption in favour of sustainable development (**Paragraph 11**) which for decision-taking means that development proposals that accord with the development plan should be approved without delay.
- 4.19 Section 5 relates to delivering a sufficient supply of homes. **Paragraph 60** sets out the Government’s objective to significantly boost the supply of homes. **Paragraph 62** makes it clear that this should include a variety of size, type and tenure of housing to provide for different groups in the community, including older people.
- 4.20 Section 9 concerns promoting sustainable transport. **Paragraph 110** states that: “In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that: a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location; b) safe and suitable access to the site can be achieved for all users; c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.”
- 4.21 **Paragraph 111** is concise and clearly states that: “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” [our emphasis].
- 4.22 Section 11 is concerned with making effective use of land, and **Paragraph 119** states that: “Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions”. **Paragraph 120** continues by noting that planning policies and decisions should: “Give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs” [our emphasis].

Update to National Planning Policy Framework Consultation (December 2022)

- 4.23 In December 2022, the Government published a marked-up draft of an updated NPPF for consultation. The consultation ran until 2nd March 2023, and the final revisions are expected imminently.
- 4.24 The main proposed changes are to Section 6 of the NPPF, relating to housing. In particular, it is notable that the Government proposes to insert new text relating to the specific need for appropriate housing for the country's elderly population, including care home provision. The proposed new text is set out below, and underlines the fact that delivery of appropriate residential accommodation for older people is a key national priority.

“Within this context of establishing need, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to: those who require affordable housing; families with children; older people – including for retirement housing, housing-with-care and care homes; students; people with disabilities; service families; travellers; people who rent their homes and people wishing to commission and build their own homes” [proposed new text underlined].

Kirklees Highway Design Guide SPD (2019)

- 4.25 The purpose of the Highway Design Guide SPD is to promote high standards of highway design, that facilitate the delivery of high quality residential, employment and mixed-use developments in Kirklees. The SPD notes that good design can help to create streets and public spaces that are safe, accessible and pleasant to use.
- 4.26 The introduction to the SPD explains that highway design has historically been the product of the rigid application of highway engineering standards, which has often resulted in utilitarian development. Imaginative and context-specific design, that does not rely on conventional standards, can also achieve the same high levels of safety and amenity. One of the aims of the guide is therefore to: “Encourage a move away from generic prescribed standards, by placing a more positive emphasis on using engineering judgement to arrive at feasible and reasonable context specific solutions” [our emphasis].
- 4.27 The SPD sets out guidance on matters relating to pedestrian and cyclist movements; street design; parking and servicing arrangements.

Manual for Streets 2 (2010)

- 4.28 'Manual for Streets 2 – Wider Application of Principles' is a companion guide to 'Manual for Streets' (2007). The guide is intended to assist those in the planning, construction and improvement of streets to deliver contextually sensitive designs.

5 THE APPEAL CASE

- 5.1 This appeal has been submitted with reference to the following grounds of challenge, which can be summarised as follows:
- 5.2 The appeal scheme accords well with the provisions of the adopted Development Plan for Kirklees. The appeal proposal will deliver a new Use Class C2 care home, for which there is an identified need, on a suitable site within the residential area of Lindley, close to public transport facilities and the shops and services of Lindley District Centre. The proposal will additionally make efficient use of a long-vacant site, bringing it back into productive use, enhancing the local environment and delivering new job opportunities.
- 5.3 It is our case that there is no conflict with Local Plan Policy LP21. The access and servicing arrangements represent an improvement on the historic arrangements for the Use Class C2 children's home on the site. The scheme incorporates a new, wider access onto Brian Street, with appropriate visibility splays. No concerns have been raised with regards to the design of the new junction, and visibility is not expected to be materially impaired by on-street parking. The proposed car park can be utilised for food deliveries, minibuses, and emergency vehicles. Refuse collection will take place on-street on Thomas Street, mirroring the historic arrangement on the site, and the existing arrangement in place for neighbouring residential properties.
- 5.4 In summary, the scheme accords well with the Development Plan, and there are additionally a range of material considerations that weigh in favour of the appeal scheme. There are no planning reasons why the appeal scheme should not be approved without delay.
- 5.5 In the remainder of this Section, the reasons for refusal are broken down and each sub-issue is scrutinised in detail. It is important to note that the Appeal Case is based upon both planning and highways evidence, which will be presented by Walsingham Planning and Sanderson Associates at the requested planning inquiry.

(A) REASON FOR REFUSAL 1: THE DEVELOPMENT PLAN

- 5.6 The first reason for refusal states simply that the proposed development is considered not to be in accordance with the requirements of the Development Plan.
- 5.7 It is considered that this relates specifically to the Council's concern that the appeal scheme is in conflict with the provisions of Local Plan Policy LP21, as set out in Reason for Refusal 2.

We note that this is the only adopted policy that is specifically mentioned in the Appeal Decision.

5.8 It should therefore be reiterated that the appeal scheme does not conflict with the Development Plan as a whole. Rather, the Council believes there to be some conflict with one specific policy, which we will refute below.

5.9 Certainly, it is clear from the Officer's Delegated Report, that the Council accepts the principle of the proposed development for a care home on the site. The only concern identified relates to the access and servicing arrangements which we now turn to address below.

(B) REASON FOR REFUSAL 2: SITE ACCESS AND SERVICING

5.10 The second reason for refusal is lengthy and can be sub-divided into several separate issues, as follows:

- Site access – visibility;
- Access for emergency and servicing / delivery vehicles;
- Access for waste collection.

5.11 It is useful to note that the reason for refusal does not mention access to the site by pedestrians and cyclists, and thus it is considered that the arrangements for access on foot and by bike are considered to be acceptable, safe and convenient.

5.12 The reason for refusal also does not mention the proposed on-site car parking arrangements, and thus it is believed that the number of spaces proposed (21 spaces) is considered to be appropriate and policy-compliant and suitable for the use proposed, although this is also a matter than can be considered in more detail at reserved matters stage.

5.13 We now turn to consider each of the three concerns highlighted by the Council in its reason for refusal.

Site Access – Visibility

5.14 A new, widened vehicular access is proposed as part of the appeal scheme. The new access will be located on Brian Street, towards the west of the site frontage. Indeed, the new access will lie in the vicinity of one of the historic access points into the site, and thus it is an

established location for access into the site. A dropped kerb pedestrian crossing will be provided at the site access bell mouth, and the junction will incorporate tactile paving.

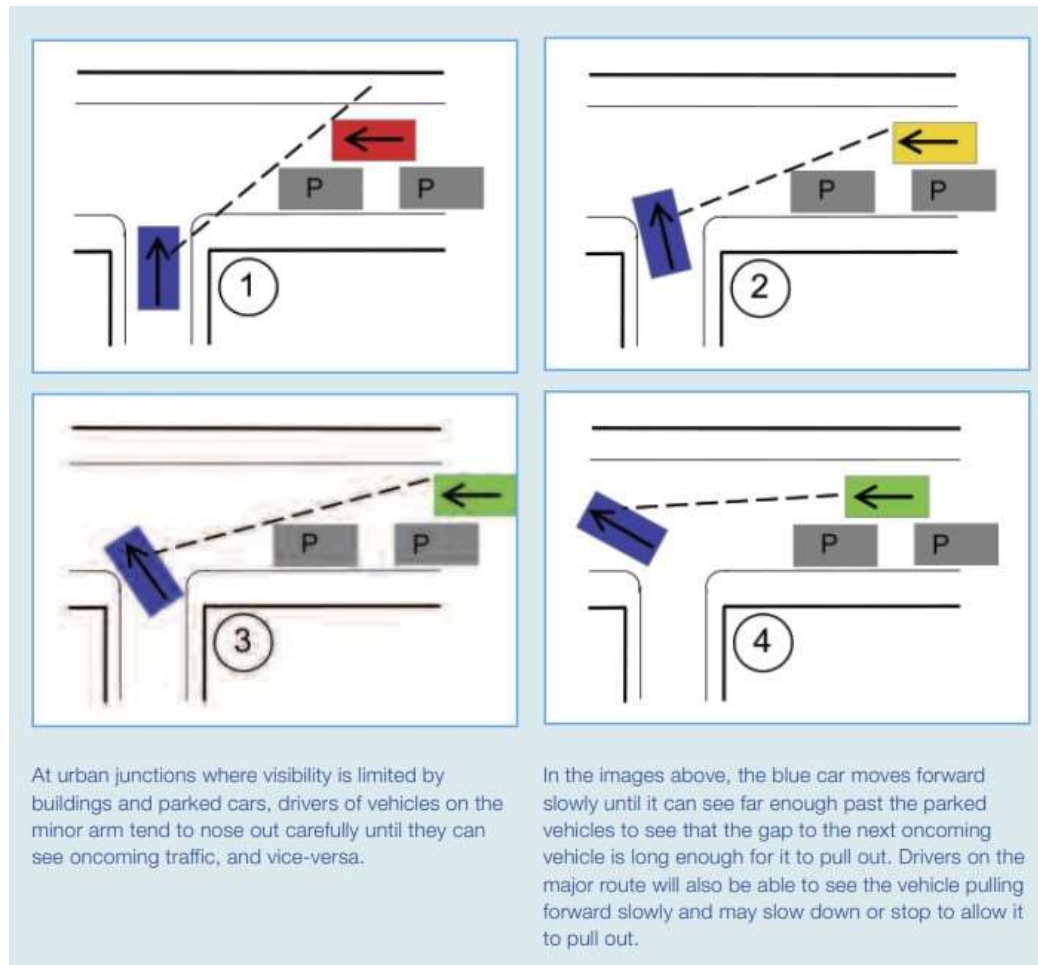
- 5.15 The visibility splays set out in the original application submission were 43m in both directions, based upon the speed limit of Brian Street. However, in order to undertake a more accurate assessment of the appropriate visibility splays, an Automatic Traffic Count (ATC) was undertaken by Road Data Services Ltd on Brian Street for 7 consecutive days between 28th March and 3rd April 2023. The ATC recorded directional vehicle traffic flow and vehicle speeds.
- 5.16 The ATC data is presented in **Appendix 3**. In summary, the ATC recorded vehicle speeds show an average speed of just 17.6mph in the eastbound direction, and 18.6mph in the westbound direction.
- 5.17 The 85th percentile speeds have been used to calculate visibility splays, based on guidance contained in Manual for Streets. At a minor road distance of 2.4m, visibility to the east is 32.8m and visibility to the west is 30.3m¹.
- 5.18 Sanderson Associates have prepared a drawing (ref. **I52986-001 Rev A**, presented in **Appendix 4**), which shows these visibility splays and demonstrates that in order to maintain the visibility splays in their entirety, there should be no on-street car parking for 10m to the west of the site access, and 13.5m to the east of the site access. The Highway Code dictates that vehicles cannot be parked within 10m of any junction. As such, there is only a stretch of 3.5m to the east of the site access where there is potential for vehicles to park on Brian Street, within the visibility splays of the site access.
- 5.19 This is not a major issue, however, and does not represent a serious or severe highways safety hazard. It is very common in built-up areas and neighbourhoods for vehicles to park within the visibility splays of site accesses, and drivers naturally adjust their behaviour to account for such obstacles. Indeed, Manual for Streets 2 – the guidance upon which the Council relies² – itself confirms in paragraph 10.7.1 that:

¹ The Appellant has subsequently met with the Case Officer (Richard Riggs) and Highways Officer (Mark Berry) in a meeting dated 25th April 2023, in order to discuss the full application submission on the site. The new traffic count data and revised visibility splays were presented to the Officers at this meeting, who accepted this approach in principle.

² Manual for Streets is referred to in the justification text for Policy LP21, and Manual for Streets 2 is its companion guide.

“Parking in visibility splays in built-up areas is quite common, yet it does not appear to create significant problems in practice. Ideally, defined parking bays should be provided outside the visibility splay. However, in some circumstances, where speeds are low, some encroachment may be acceptable”.

- 5.20 Further examples of how such a junction would operate in practice are set out diagrammatically in Manual for Streets 2, and are reproduced below for reference:



Source – Manual for Streets 2 (page 80)

- 5.21 The speed limit on Brian Street is 30mph, but in practice (as demonstrated through the ATC data) average speeds are less than 20mph in both directions. In these circumstances, it is our case that – even in the worse case scenario that a car / cars have parked within the visibility splays of the new access junction - this will not pose a material highways hazard, as vehicles will still be able to enter and exit the site safely.

- 5.22 It is also a relevant material consideration that the site has historically accommodated a children's home (Use Class C2), and latterly offices, and has used three vehicle access junctions under the same circumstances, with parked vehicles on the surrounding residential streets.
- 5.23 Furthermore, Crashmap data (as presented in the **Transport Assessment** submitted with the planning application) shows that there have not been any road traffic incidents on Brian Street, Thomas Street or Thorncliffe Street within the vicinity of the site or at the peripheral junctions with Lidget Street, within the 5 year search period.
- 5.24 In these circumstances, it is considered that the proposed access junction is safe and suitable, and there is no evidence that the access will have any unacceptable impact on local highway safety. It is the Appellant's case that the proposed site access arrangements are entirely in accordance with the provisions of Local Plan Policy LP21, as well as the provisions of the NPPF and the Kirklees Highway Design Guide SPD. In summary, we would like to reiterate that:
- Traffic flow and speeds on the local road network have been measured, and the data shows that the average vehicle speed outside the proposed site access is very low (less than 20mph);
 - It is fully expected that the majority of the visibility splay will be kept clear, because it is unlawful to park within 10m of an access junction, and thus no further mitigation measures are necessary.
 - Only a small slither of the visibility splay to the east of the site (3.5m) will fall outside the 10m measurement. However, parking within this area is not problematic and Manual for Streets 2 confirms that this is a common occurrence within built-up areas, and is not a road safety risk because drivers moderate their behaviour accordingly. Certainly, vehicle speeds are already slow on Brian Street, and thus this is not likely to be an issue.
 - The fact that the site has previously been served by 3 (narrower) vehicle access points, which operated under similar conditions in terms of on-street parking, is a material consideration. As is the fact that there is no historic record of accidents / injuries on the local road network.
 - Finally, it is a material consideration that the appeal proposal will involve the closure of two existing redundant vehicle access points, and the restoration of paving in these areas. This will enhance the local pedestrian environment, and will also create new opportunities for on-street parking, in front of the former accesses.

Access for Emergency and Service / Delivery Vehicles

- 5.25 Policy LP21 also requires development proposals to “*take into account access for emergency, service and refuse collection vehicles*”. These are important considerations that have been taken into account in the outline design of the appeal scheme.
- 5.26 In the case of a care home use, the largest vehicle that is expected on a regular basis is a minibus / supermarket delivery vehicle. These vehicles are of similar size and are larger than ambulance and transit vans, including typical postal vans. Sanderson Associates have prepared a drawing (ref. **152986-002 Rev A**, presented in **Appendix 5**), which provides a swept path assessment of a minibus and ambulance servicing the site, and it confirms that these vehicles can all safely enter and exit the car park in forward gear. The drawing also confirms that there is scope to provide a dedicated ambulance / minibus bay within the car park, and the detail of this arrangement can be agreed at reserved matters stage, when the final site layout is submitted for approval.
- 5.27 Furthermore, **Appendix 5** provides a further drawing (ref. **152986-003 Rev A**), which confirms that a 10m rigid vehicle can also safely enter and exit the site, although this scenario is unlikely to materialise in practice as there the care home will not be serviced by such vehicles.
- 5.28 It should be noted that the proposed care home will undertake its own laundry, and as such there will be no requirement for linen collection / deliveries.
- 5.29 The evidence presented thus confirms that emergency vehicles and regular service vehicles can safely enter and exit the site, via the proposed new access on Brian Street. There are no highways safety concerns with the proposed arrangements and no conflict with the Development Plan.

Access for Waste Collection

- 5.30 Refuse collection is proposed to take place kerbside from Thomas Street. This replicates the servicing arrangements that were in place for the former children’s home on the site. To assist servicing, a secure external bin store will be located to the west of the new building, within 15m of Thomas Street. The site will incorporate a level footpath, and dropped kerbs to assist the manoeuvre of refuse out of the site.
- 5.31 The proposed servicing arrangement is shown in **Figure 5.1** below, and should be compared to **Figure 5.2**, which shows the same servicing arrangement in place for the former occupants

of the site. The fact that the site has historically been serviced from Thomas Street, with no accident / injury / impediment to traffic flow is a material consideration, which demonstrates that this is a practicable and suitable option for the site.

- 5.32 The refuse vehicle can wait in the layby on Thomas Street, if this is available for use. However, it is not problematic if the layby is occupied. Thomas Street is approximately 6m wide (excluding the layby). As such, there is room for traffic to pass the service vehicle, in the event that it stops on the street. This is a common occurrence in built-up residential areas. Indeed, service vehicles already stop along Thomas Street to collect refuse from the neighbouring residential dwellings, and the proposed development will not introduce any new conflict.

Figure 5.1 – Proposed Refuse Servicing Arrangements (Thomas Street)



Figure 5.2 – Historic Refuse Servicing Arrangements (Thomas Street)

- 5.33 It is also important to note that refuse collections will occur infrequently (1 to 2 times per week), and the vehicle will only need to stop for a matter of minutes to empty the easily accessible bins. As such, it is clear that there will be no harm to traffic flow in the local area. The ‘conflict’ (in terms of a parked service vehicle) will occur for just a few minutes a week. Moreover, as has been explained above, the vehicle will not block the street, and traffic will be able to continue to pass by the vehicle.
- 5.34 It must also be reiterated that the application is made in outline, with all matters reserved except access. It has been shown that the site can be accessed appropriately by all site users, and that it is feasible to service (in terms of refuse collections) from Thomas Street. However, there is scope to provide further details – in terms of the precise siting of the bin store and reviewing the proposed servicing arrangements – when the layout of the site is fixed as part of subsequent reserved matters submissions. At this stage, it is sufficient to demonstrate – as is the case – that the site is capable of being serviced safely, and with no adverse impact in terms of the operation of the local highway.
- 5.35 Finally, we note that the Council’s position on this point is not clear. Although Reason for Refusal 2 does mention that the servicing / delivery arrangements at the north of the site are “inadequate”, the Officer’s Delegated Report does not take such a firm stance. The Delegated Report states:

“In this regard, it is considered that the proposed route for refuse and waste collection could likely be made acceptable as a betterment to the historic arrangements, but this

would require works for a dropped kerb to negate any conflict due to the cambered nature of the existing dropped kerb into the existing layby. It is also noted that roadside refuse collection would likely impinge on the free flow of traffic along Thomas Street, but Officers consider that this would be momentary and would not cause an unacceptable impact on highway safety”.

- 5.36 The Delegated Report acknowledges that the proposed refuse collection arrangements will not cause an unacceptable impact on highway safety, and this is corroborated by the evidence presented above. The arrangements are entirely suitable, convenient and appropriate for the site, its context, and the use proposed. Certainly, there is no evidence to suggest that the servicing arrangements represent a conflict with Local Plan Policy LP21 or the provisions of the NPPF.

Summary in Relation to Reason for Refusal 2

- 5.37 Reason for Refusal 2 is very long-winded, but – in summary – raises concerns with the proposed site access arrangements, in terms of access by emergency and service / delivery vehicles and visibility given the prevalence of on-street car parking; and it also alleges that refuse collections on Thomas Street may have an impact on the free flow of traffic.
- 5.38 It is the Appellant’s case that the site can be accessed safely by all users, and that the servicing arrangements are entirely appropriate for the use proposed, its location, and its historic context.
- 5.39 We note that the Reason for Refusal does actually acknowledge this point and specifically states that: *“Officers note the brownfield nature of this site and its previous uses and consider that the site could be developed with a safe means of access for all road users”*. However, it is the Council’s view that further mitigation measures are required to achieve the safe means of access.
- 5.40 As has been set out above, the evidence presented by the Appellant shows that no further works / mitigation measures are required at this stage, as there is no conflict with the provisions of the Development Plan. Furthermore, it has been shown that the access / servicing arrangements will not have any unacceptable impact on highway safety, and the impact on the road network is not expected to be ‘severe’. Indeed, no adverse impacts are anticipated in this regard at all.

(C) REASON FOR REFUSAL 3: OTHER MATERIAL CONSIDERATIONS

5.41 The Decision Notice states that there are no material considerations advanced in favour of the development that would outweigh the identified conflict with the Development Plan.

5.42 We fundamentally disagree with this assertion. Firstly, it is the Appellant's firm case that the appeal proposal is not in conflict with the Development Plan (i.e. Local Plan Policy LP21), as set out in relation to Reason for Refusal 2 above.

5.43 Secondly, there are many 'material considerations' that also weigh in favour of granting approval for the appeal scheme. These reasons were originally set out in the Planning Statement prepared by Walsingham Planning submitted with the application, and are set out in detail in **Section 7** below. They are also acknowledged within the Officer's Delegated Report. Indeed, the Delegated Report states that:

- *"The proposal would represent a sustainable use of previously developed land";*
- *"Officers consider that the principle of development for the proposal to be in accordance with Policies LP1, LP2, and LP3 of the adopted Kirklees Local Plan and the NPPF";*
- *"Officers consider that the proposal is located in a sustainable location... in accordance with Policy LP20 of the adopted Kirklees Local Plan"; and*
- *"As a C2 care home, the proposal would likely provide local employment opportunities for a range of job roles associated with the management, maintenance, operation and care requirements of the development".*

5.44 We will expand upon this list in **Section 7**, but it is evident that the appeal scheme will have many positive economic, social and environmental benefits, and these factors also weigh heavily in favour of allowing the appeal proposal.

6 OTHER THIRD PARTY ISSUES

6.1 In this section, we comment on other planning issues arising out of the appeal proposals. Notwithstanding the agreement reached between the Appellant and the Council on all matters, with the exception of those outlined in **Section 5** above³, we are aware that a number of third parties (in representations to the application) have raised additional issues in relation to the appeal proposals.

6.2 Five letters of representation from local residents were submitted during the course of the application's determination (4 were objections and 1 was a general comment). We address each main issue in turn below.

(A) TREES

6.3 One respondent raised concern that the appeal proposal will result in the loss of trees.

6.4 The illustrative Site Layout, which was submitted with the application, has been designed to minimise the loss of trees within the site, particularly noting that some of the specimens are protected by Tree Preservation Orders.

6.5 The submitted **Arboricultural Impact Assessment**, prepared by e3p, identifies that there are presently 35 individual trees on and adjacent to the site. This comprises 22 individual trees graded Category B (of moderate value), 11 individual trees graded Category C (of low value), and 2 trees which have been categorised as unsuitable for retention (Category U).

6.6 In terms of the indicative layout presented on the Proposed Site Plan, this shows that the development would likely require the removal of 4 individual trees graded 'B' category, 5 individual trees graded 'C' category, and 1 individual tree graded 'U' category. Five of these 10 trees are covered by a Tree Preservation Order, as summarised in the table below.

TABLE 4.1 TREE REMOVALS REQUIRED TO ACCOMMODATE DEVELOPMENT PROPOSALS

CATEGORY	REMOVALS NECESSARY TO IMPLEMENT DEVELOPMENT	TOTAL NO. OF REMOVALS
CATEGORY A	-	0 trees
CATEGORY B	T2, *T4, *T28, *T29	4 trees
CATEGORY C	T3, *T12, *T13 T20, T21	5 trees
CATEGORY U	T1	1 tree

T -Denotes trees subject to Tree Preservation Order

³ Please also refer to the submitted draft Statement of Common Ground

6.7 The Appellant fully intends to provide replacement planting to mitigate this loss and enhance the landscaping provision on the site. However, as the appeal is made in outline, full details of the proposed landscape strategy will be provided at the reserved matters stage.

6.8 We note that when considering the application, the Council agreed with this approach and the Delegated Report states that:

“Officers note that KC Trees have raised no objections at this outline stage, subject to further consideration at Reserved Matters. The necessary conditions would also be secured for full arboricultural details to be submitted at Reserved Matters stage. As such, the outline proposal is considered to be in accordance with Policy LP33 of the adopted Kirklees Local Plan.”

6.9 In summary, the Appellant is committed to minimising tree loss, and will provide a comprehensive landscape scheme at reserved matters stage, to mitigate any loss and provide a suitable and attractive landscaping scheme for the site, to maximise the amenity value of the site for residents and visitors.

(B) DESIGN, APPEARANCE AND OVER-LOOKING

6.10 One respondent has raised concerns regarding the potential scale of the building on the site, its likely appearance, and scope for windows to overlook neighbouring gardens.

6.11 These will be important matters to consider at the reserved matters stage, when detailed drawings of the building’s layout, floor plans and elevations are worked up. These issues are not, however, pertinent to consideration of the current outline application.

(C) CAR PARKING

6.12 Residents have expressed concern that there is insufficient car parking in the local area. It is understood that there has been a local petition to secure the future use of the appeal site as a car park (although we have not seen this petition and do not know the number of signatories). The site is not allocated for car parking in the Local Plan, and is a previously developed site, which has historically accommodated built development (in the form of a comparable C2 Use).

6.13 There is no published local requirement to provide a car park on the site, and residents’ aspirations for an alternative use of the site is not a valid material consideration.

- 6.14 The Appellant can, however, assure residents and the Inspectorate that sufficient car parking for the proposed new care home use will be provided, with details of the car park layout to be agreed at reserved matters stage.
- 6.15 We understand that the maximum parking provision for the site (as agreed with the Highways Authority) would be 22 car parking spaces for staff and visitors. The development proposes 21 spaces, which is within the maximum limit, and does not represent an under-provision. The car park will include 2 disabled car parking spaces, and 2 electric vehicle charging spaces (with a further 2 spaces fitted with passive infrastructure for future use). Thus, it is fully expected that the parking requirements of the new use will be fully met by the new car park to be provided on-site.
- 6.16 Indeed, it should also be reiterated that the site is located in a highly sustainable and accessible location, where there are opportunities for staff and visitors to travel to the care home by non-car modes of transport. The site is located within the heart of the neighbourhood of Lindley, close to the District Centre, and with good footpath connectivity. A bus stop is also located immediately adjacent to the site, on Thorncliffe Street, which provides regular service to Lindley, Halifax, Meltham and Dalton. As such, staff and visitors will have an extensive choice of sustainable travel options, which will reduce the need to travel by car.
- 6.17 We understand that residents currently park in the streets surrounding the site. It is relevant that two existing vehicular access points to the site will be removed as part of the proposals, and the footpath reinstalled, which will provide additional opportunities for on-street parking.
- 6.18 In summary, the proposed development will provide on-site car parking, suitable for the use proposed, in full accordance with Local Plan **Policy LP22**.

(D) TRAFFIC FLOW

- 6.19 Some residents have raised concern that the new use will increase the flow of traffic through Lindley.
- 6.20 This matter is addressed in the **Transport Assessment** that was submitted with the outline application. The Assessment shows that the predicted vehicle traffic generation is modest and at a level that is unlikely to be perceivable on the wider highway network.

- 6.21 Indeed, during the AM peak period (08:00 – 09:00) traffic generation onto Brian Street is predicted to be 5 vehicle arrivals and 5 vehicle departures, which equates to 1 arrival and departure every 12 minutes.
- 6.22 During the PM peak period (16:00 – 17:00), traffic generation at the site access is predicted to be 3 vehicle arrivals and 7 vehicle departures. This equates to 1 arrival every 20 minutes and 1 departure every 8.5 minutes.
- 6.23 As the additional traffic generation from the site is predicted to be low, combined with a standard junction arrangement, and a history of no accidents on the local road network, it is considered that the operation, safety and traffic flow on the local highway network will not be adversely affected by the appeal proposals.
- (E) NEED FOR A CARE HOME
- 6.24 One respondent commented that there is need for more family housing, and no requirement for a care home. Again, the use of the site for an alternative form of development is not a material planning consideration in this case.
- 6.25 Meanwhile, it is the Appellant's case that there is a strong need for additional care home provision in the Lindley area, and this is a matter that weighs strongly in favour of the scheme. We expand upon this point in **Section 7** below.

7 OVERALL ASSESSMENT OF THE APPEAL PROPOSALS

7.1 It is the Appellant's case that – for the reasons set out in **Section 5** of this Statement – the appeal proposal will have no adverse impacts in relation to highway and road safety matters.

7.2 Moreover, it is highly relevant that the appeal proposal will deliver several important social, economic and environmental benefits, and these are material considerations that weigh heavily in favour of the appeal scheme. The key benefits can be summarised as follows:

- **Regeneration of a Vacant Site** – The appeal site is located in a prominent location (surrounded on three sides by residential street frontage) and it has been vacant and cleared for over a decade. The site is overgrown, unsightly and adds no value to the local neighbourhood in its current form. The appeal scheme will provide a viable new use for the site, as a care home, which is entirely appropriate within a residential area. The new building will be of an appropriate scale and design (with details to be agreed at reserved matters stage) and will enhance the local streetscape. The scheme will also be accompanied by a comprehensive landscape scheme to deliver environmental improvements to the plot, to be managed and maintained over the long-term.
- **New Care Home (up to 60 bedrooms)** - The appeal scheme will help to address Kirklees Council's identified need for additional care home beds over the plan period. A **Care Home Need Assessment** was submitted with the outline application, and this shows that there is a need for 214 additional care home bed spaces within the target area⁴, by 2025, which is substantial. There is also an identifiable under-provision of high-quality care home provision in the local area, and the report identifies a shortage of ensuite bedrooms in the existing care home stock.

The proposed new care home will provide a valuable role by delivering up to 60 new care home bedspaces, and all the bedrooms will have ensuite facilities. In addition, the new care home will have a range of other complementary on-site facilities, including private lounges / dining areas; day-spaces; cinema; hair salon; and dedicated activity spaces to provide stimulation and recreational space for residents. The site will also benefit from private gardens / courtyard space for residents to enjoy outdoor

⁴ The 'target area' has been based on the area within a 2-mile radius of the site, and thus focuses on Lindley and the communities to the north-west of Huddersfield.

recreation. The aim is thus to ensure that future residents of the care home enjoy a high level of amenity. The appeal proposal will thus meet an identified quantitative and qualitative need for good quality care home accommodation in the local area.

- **Impact on Use Class C3 Housing Stock** – In addition, by providing good quality care accommodation, the scheme will have the indirect benefit of freeing up other, often under-utilised family accommodation for larger households. Indeed, by providing an alternative type of residential accommodation to cater for the specific needs of older people, the proposed development will lead to additional ‘conventional’ C3 housing stock coming to the market.
- **Job Creation** – The proposal will also deliver economic benefits to the area by creating new jobs (around 48 FTE) in a range of roles and levels of seniority. The job opportunities will include a range of full-time, part-time and shift positions, in a range of sectors, including health care, administration, cleaning, maintenance and catering. We note that paragraph 81 of the NPPF states that: “Significant weight should be placed on the need to support economic growth and productivity”.

7.3 It is the Appellant’s case that the appeal site has now been vacant for a decade, and the opportunity should be taken to regenerate this land, and provide new high-quality residential accommodation for Lindley’s elderly population. The appeal proposal offers an opportunity for renewal and investment, which will deliver a range of social, environmental and economic benefits at the site-level and for the wider community as a whole.

7.4 In conclusion, whilst it is the Appellant’s case that the principle of the development is acceptable (as agreed with the local planning authority), it is notable that the proposal will also deliver a range of benefits that are material considerations which also weigh in favour of granting the appeal proposals.

8 SUMMARY AND CONCLUSIONS

- 8.1 The appeal relates to an outline proposal for a new care home (Use Class C2), of up to 60 bedrooms, with associated access.
- 8.2 The appeal site has been vacant for ten years, and previously accommodated an alternative Class C2 Use (a children's home). The appeal scheme will deliver a modern, high-quality care home, for which there is an identified quantitative and qualitative need.
- 8.3 The Council accepts the principle of the development on the site, and the Officer's Delegated Report concluded as follows:

“Officers consider that given the site's previous uses, its largely residential surroundings, and proximity to the defined Lindley District Centre, that the use of land for a C2 Care Home would be acceptable in this instance. It is also considered that the proposal would represent a sustainable use of previously developed land.

As such, Officers consider that the principle of development for the proposal to be in accordance with Policies LP1, LP2 and LP3 of the adopted Kirklees Local Plan and NPPF (Chapters 2 and 11), particularly Paragraph 123”.

- 8.4 It is clear from the Decision Notice and the Delegated Report, that there is actually only one policy in the Development Plan, that the Council considers there to be a conflict with, and this is **Local Plan Policy LP21**, which relates to matters of highways access.
- 8.5 In this Statement of Case, we have demonstrated that the Council's concerns with regards to Policy LP21 are unfounded. The site will provide a new, widened site access junction, with appropriate visibility splays. Traffic flow and speeds on the local residential streets are low, and there is no local accident record, and as such there is no evidence to suggest that the proposed junction arrangement will be unsafe or unsatisfactory. Indeed, the proposed access has been designed with close reference to the guidance provided in the Manual for Streets 2.
- 8.6 It is also the Appellant's case that the site can be suitably serviced, by emergency vehicles, delivery vans, and refuse collections. There is the opportunity to further refine details relating to the layout of the car park and the siting of the bin store at the reserved matters stage, and these details should not form a reason for refusal, as the site plan is only illustrative at this stage.

- 8.7 All highways matters have therefore been addressed in this Statement of Case. It has been shown that full regard has been had to highways safety matters in the design of the appeal proposal, and – moreover – that the scheme gives rise to no highways’ safety issues. We reiterate that **paragraph III** of the NPPF specifically states that: “*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*”. It has been conclusively shown that these circumstances do not exist in relation to the appeal scheme.
- 8.8 Whilst there was only one substantive reason for refusal cited on the Decision Notice, we have also sought to re-address the main concerns that were raised by third parties during the application process. In particular, it is confirmed that the appeal proposal will deliver an appropriate quantum of on-site car parking for the use proposed; that any loss of trees will be mitigated; and that there is a clear local requirement for additional care home provision to meet the needs of Lindley’s elderly population.
- 8.9 It is the Appellant’s case that the site has now been vacant and under-utilised for a long time. The principle of the proposed development is acceptable and the proposal will have no material adverse impacts that weigh against it. The opportunity should now be taken to regenerate the site and deliver the significant benefits that the scheme will bring in terms of investment, job creation, provision of high-quality care home accommodation, and enhancing the environment of the neighbourhood.
- 8.10 It is therefore the Appellant’s case that the proposal accords well with the provisions of the Development Plan as a whole, including the requirements of Local Plan Policy LP21, and that it also aligns with the guidance set out in the NPPF and the Council’s Highways Design Guide SPD.
- 8.11 Based on the above considerations, it is proposed that the planning balance in this case weighs strongly in favour of the appeal scheme.
- 8.12 In light of the above, the Appellant respectfully requests that the appeal is upheld and outline planning permission is granted for the care home development.

APPENDIX I

***Email correspondence from Walsingham Planning to the Case Officer (dated 5th
January, 17th January and 3rd February 2023)***

Laura Beech

From: Bruce Risk
Sent: 05 January 2023 18:07
To: Richard Riggs
Cc: Mark Krassowski
Subject: 2022/92194 Thomas St, Lindley
Attachments: 2009 Thomas Street.jpg; 2010 Thomas Street.jpg

Good afternoon, Richard

I am writing in response to the emails of your colleague, Mr Berry, the latest being from 19th December 2022.

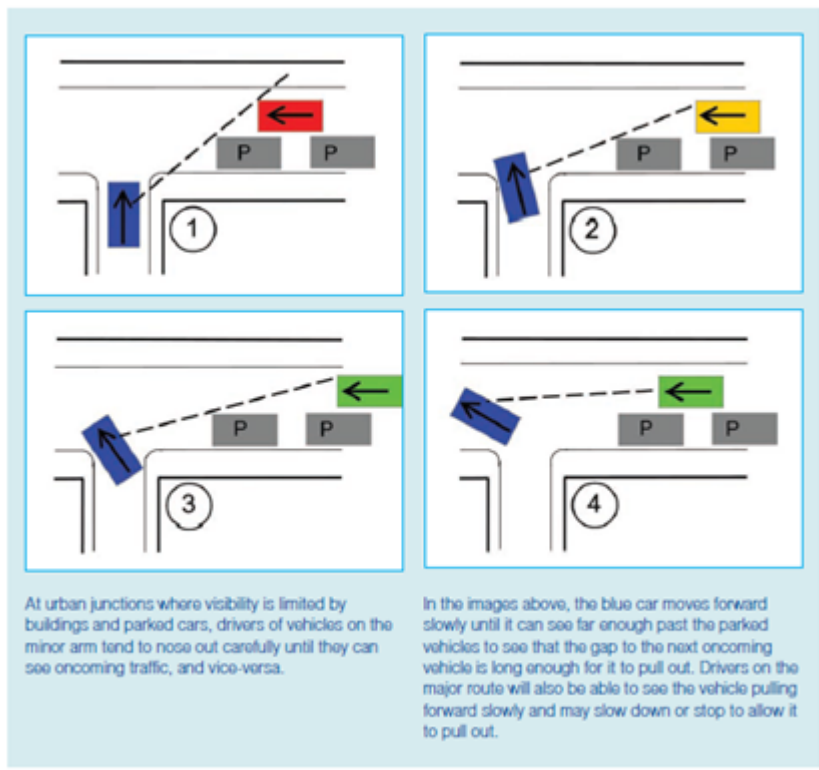
The highway issues raised by your colleague are understood to be twofold:

1. Visibility on exiting the proposed care home car park onto Brian Street will potentially be reduced due to on-street parking close to the site entrance because parking is in high demand in the area.
2. Servicing on Thomas Street may impact the passage of free-flowing traffic.

The potential solutions for these two issues, a TRO and revised servicing arrangements, are not viable nor necessary, and our client is not amenable to agreeing to amending their scheme or accepting a planning condition requiring a TRO to be put in place.

On-street parking is prevalent on the streets surrounding the site, including Brian Street, Thomas Street and Thorncliffe Street, and this positively reduces traffic speeds in the area. There are accesses (e.g. Adam Court) and private drives on this road network that are currently in use which also reduces existing access visibility due to on-street parking. Nevertheless, the road traffic accident assessment in section 3.4 of the Transport Assessment identified that there had not been any injury road traffic incidents on Brian Street, Thomas Street or Thorncliffe Street within the vicinity of the site within the 5-year search period. Therefore, any access visibility issues are not causing accident problems. Manual for Streets 2 identifies in paragraph 10.7.1 that:

Parking in visibility splays in built-up areas is quite common, yet it does not appear to create significant problems in practice. Ideally, defined parking bays should be provided outside the visibility splay. However, in some circumstances, where speeds are low, some encroachment may be acceptable. (See example below.)



The proposed access formally served a 15/16 space car park on the site for the former care home. Previous access conditions, including on-street parking, are similar to those proposed and with no injury road traffic incidents at this access within the last 23 years (which includes 12 years that the site was operational). It must also be remembered that the applicant is proposing to improve this access by widening it.

On servicing, the former use of the site was as a care home. The bin store was located off Thomas Street in a similar position to that proposed, with presumably a kerbside collection. Historic Street View images show vehicles parked in the layby adjacent to the site when the site was operational (2009 and 2010). Therefore, historic refuse collection for the site from Thomas Street would have been commonplace (whether using the layby or not).

The refuse collection and servicing arrangements on Thomas Street are the same as those for all the existing properties accessed from Thomas Street. The process of servicing is transient. It does not have a lasting impact on traffic conditions, particularly as the refuse stores will not block the footway – unlike residential bins left on the kerb side – and the care home would be expected to generate no more than one service delivery every two days. In any event, refuse vehicles already service residential properties from the street. A swept path analysis for a refuse collection vehicle is provided within the Transport Assessment to demonstrate how this would operate safely.

The Transport Assessment prepared by Sanderson Associates demonstrates that the development will not have an unacceptable impact on highway safety and that residual cumulative impacts of the development are not severe in transport terms. The proposal, therefore, complies with the NPPF; notably, para 111, which states, "Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

The application proposals would see an existing access point on Brian Street closed off and a further current access point on Thomas Street closed off. This, as well as widening the site access to be used. These will provide significant highway benefits. There are, therefore, only benefits from the proposed arrangement.

There are also numerous significant benefits to granting planning permission. These are not limited to but include the redevelopment of a vacant brownfield site in a sustainable location; providing a care home facility that meets an acute local need; freeing up traditional housing stock in the area; and delivering significant social, environmental, and economic benefits. There can be no doubt that the proposal is sustainable development.

The current proposals are the best possible solution and pragmatic given the nature of the locality and the previous use of the site, and the benefits of developing the site for the application proposal far exceed any concerns. Our client will not be amenable to funding a TRO as it is not necessary or proportionate to the development under consideration. Moreover, there can be no guarantee that a TRO will be granted as it will be subject to legal procedures, including public consultation.

Our client will not be revising our proposals as the evidence is overwhelming in favour of the view that the proposals do not have an unacceptable impact on highway safety and that residual cumulative effects of the development are not severe in transport terms.

Can you please proceed to finalise your delegated report and please provide a list of planning conditions asap so, we can issue no undue delays in issuing the decision notice.

Many Thanks,

Bruce Risk
Senior Planner
Walsingham Planning
Brandon House, King Street, Knutsford, WA16 6DX
T: 01565 757500 M: **07826 557806** F: 01565 757501
E: bruce.risk@walsingplan.co.uk
www.walsinghamplanning.co.uk



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Laura Beech

From: Bruce Risk
Sent: 17 January 2023 10:43
To: 'Richard Riggs'; Matthew Buckle; Steve Bourne; Mark Krassowski
Cc: david.wordsworth@kirklees.gov.uk; planning.contactcentre@kirklees.gov.uk
Subject: 2022/92194 Thomas St, Lindley

Importance: High

Good morning, Richard

I trust that this email finds you well.

Can you please provide me with an update? We issued our updated response on the 05th of January, and it is now the 17th. A considerable period has now passed, ample time for comment.

As has been expressed, our client will not be revising our proposals as the evidence is overwhelming in favour of the view that the proposals do not have an unacceptable impact on highway safety and that residual cumulative effects of the development are not severe in transport terms. The current proposals are the best possible solution and pragmatic given the nature of the locality and the previous use of the site; the benefits of developing the site for the application proposal far exceed any concerns. Our client will not be amenable to funding a TRO as it is not necessary or proportionate to the development under consideration. As the ultimate decision maker, it is within your powers not to seek one.

As well as providing an update, can you please proceed to finalise your delegated report and provide a list of planning conditions as soon as possible.

If it is easier and expedites the process, we would be amenable to a telephone or teams call at a time to suit you.

Many Thanks,

Bruce Risk
Senior Planner
Walsingham Planning
Brandon House, King Street, Knutsford, WA16 6DX
T: 01565 757500 M: **07826 557806** F: 01565 757501
E: bruce.risk@walsingplan.co.uk
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From: Bruce Risk
Sent: 05 January 2023 18:07
To: Richard Riggs <Richard.Riggs@kirklees.gov.uk>
Cc: Mark Krassowski <Mark.Krassowski@walsingplan.co.uk>
Subject: 2022/92194 Thomas St, Lindley

Good afternoon, Richard

I am writing in response to the emails of your colleague, Mr Berry, the latest being from 19th December 2022.

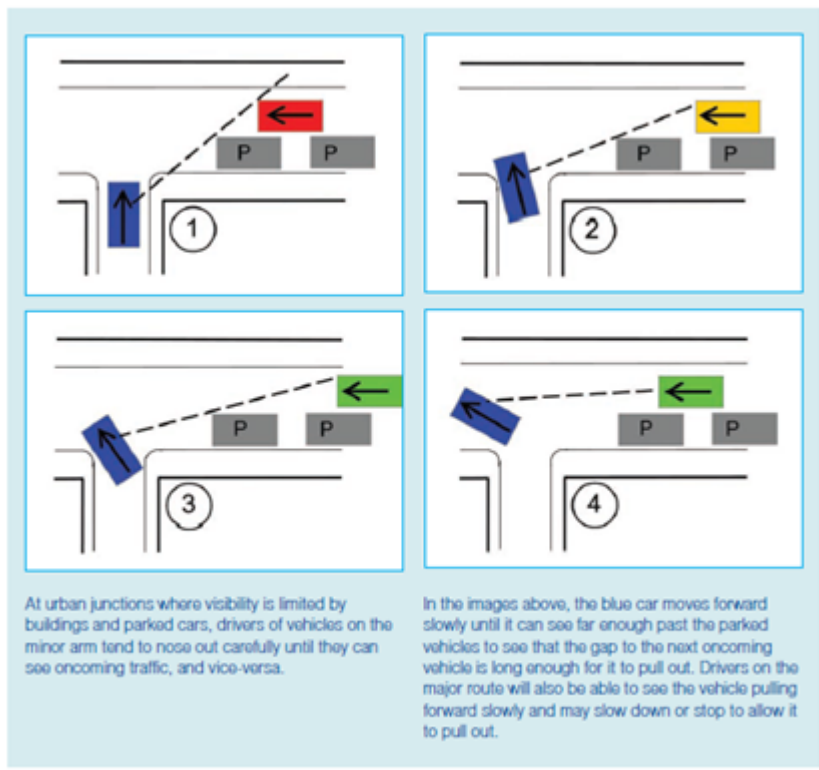
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1. Visibility on exiting the proposed care home car park onto Brian Street will potentially be reduced due to on-street parking close to the site entrance because parking is in high demand in the area.
2. Servicing on Thomas Street may impact the passage of free-flowing traffic.

The potential solutions for these two issues, a TRO and revised servicing arrangements, are not viable nor necessary, and our client is not amenable to agreeing to amending their scheme or accepting a planning condition requiring a TRO to be put in place.

On-street parking is prevalent on the streets surrounding the site, including Brian Street, Thomas Street and Thorncliffe Street, and this positively reduces traffic speeds in the area. There are accesses (e.g. Adam Court) and private drives on this road network that are currently in use which also reduces existing access visibility due to on-street parking. Nevertheless, the road traffic accident assessment in section 3.4 of the Transport Assessment identified that there had not been any injury road traffic incidents on Brian Street, Thomas Street or Thorncliffe Street within the vicinity of the site within the 5-year search period. Therefore, any access visibility issues are not causing accident problems. Manual for Streets 2 identifies in paragraph 10.7.1 that:

Parking in visibility splays in built-up areas is quite common, yet it does not appear to create significant problems in practice. Ideally, defined parking bays should be provided outside the visibility splay. However, in some circumstances, where speeds are low, some encroachment may be acceptable. (See example below.)



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On servicing, the former use of the site was as a care home. The bin store was located off Thomas Street in a similar position to that proposed, with presumably a kerbside collection. Historic Street View images show vehicles parked in the layby adjacent to the site when the site was operational (2009 and 2010). Therefore, historic refuse collection for the site from Thomas Street would have been commonplace (whether using the layby or not).

The refuse collection and servicing arrangements on Thomas Street are the same as those for all the existing properties accessed from Thomas Street. The process of servicing is transient. It does not have a lasting impact on traffic conditions, particularly as the refuse stores will not block the footway – unlike residential bins left on the kerb side – and the care home would be expected to generate no more than one service delivery every two days. In any event, refuse vehicles already service residential properties from the street. A swept path analysis for a refuse collection vehicle is provided within the Transport Assessment to demonstrate how this would operate safely.

The Transport Assessment prepared by Sanderson Associates demonstrates that the development will not have an unacceptable impact on highway safety and that residual cumulative impacts of the development are not severe in transport terms. The proposal, therefore, complies with the NPPF; notably, para 111, which states, "Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

The application proposals would see an existing access point on Brian Street closed off and a further current access point on Thomas Street closed off. This, as well as widening the site access to be used. These will provide significant highway benefits. There are, therefore, only benefits from the proposed arrangement.

There are also numerous significant benefits to granting planning permission. These are not limited to but include the redevelopment of a vacant brownfield site in a sustainable location; providing a care home facility that meets an acute local need; freeing up traditional housing stock in the area; and delivering significant social, environmental, and economic benefits. There can be no doubt that the proposal is sustainable development.

The current proposals are the best possible solution and pragmatic given the nature of the locality and the previous use of the site, and the benefits of developing the site for the application proposal far exceed any concerns. Our client will not be amenable to funding a TRO as it is not necessary or proportionate to the development under consideration. Moreover, there can be no guarantee that a TRO will be granted as it will be subject to legal procedures, including public consultation.

Our client will not be revising our proposals as the evidence is overwhelming in favour of the view that the proposals do not have an unacceptable impact on highway safety and that residual cumulative effects of the development are not severe in transport terms.

Can you please proceed to finalise your delegated report and please provide a list of planning conditions asap so, we can issue no undue delays in issuing the decision notice.

Many Thanks,

Bruce Risk
Senior Planner
Walsingham Planning
Brandon House, King Street, Knutsford, WA16 6DX
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Laura Beech

From: Mark Krassowski
Sent: 03 February 2023 13:35
To: Richard.Riggs@kirklees.gov.uk
Cc: Bruce Risk; Steve Bourne; Matthew Buckle
Subject: FW: 2022/92194 Thomas St, Lindley
Attachments: 2022/92194 Thomas St, Lindley; 2022/92194 Thomas St, Lindley

Dear Richard,

I am working alongside Bruce Risk on this application and having spoken further with our client Muller Property Group, I am afraid we and our Highway Engineers fundamentally disagree with the views of the Highway Officer. I believe that position had been made clear in my colleague's emails to you of 5th and 17th January (attached again for ease).

We will not be revising the application and ask that you determine it based on the information that has been submitted. If that means refusing the application then so be it. Muller Property Group would appeal such a refusal, which would be a tremendous shame as it would delay the development of a much-needed care home on previously developed land in a sustainable location.

Without repeating the detailed highway comments contained within the attached emails, I will just make the following points which reflect the fact that the site formerly had a care home building on it, and which as Planning Officer you will appreciate are very material considerations in the determination of the application (or any subsequent appeal):

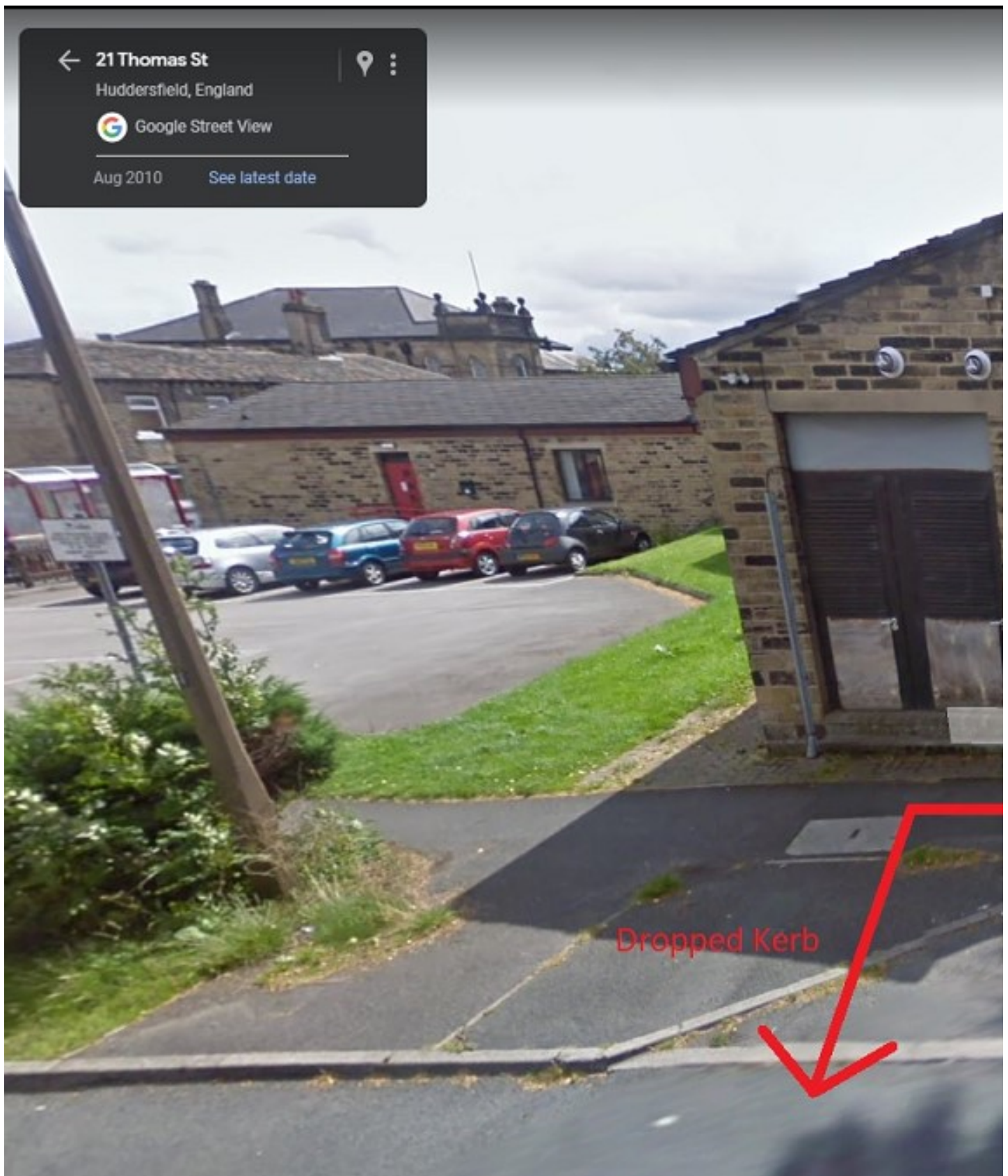
1. Site access

The existing site access onto Brian Street is being reused. While the prevalence of parked cars on Brian St may affect visibility on exiting the site, this needs to be considered in the context of the surrounding roads and low traffic speeds. That is why Manual for Streets 2 allows flexibility. The problem with a Grampian condition requiring a TRO is that the TRO may not be granted because local residents who park on street will object.

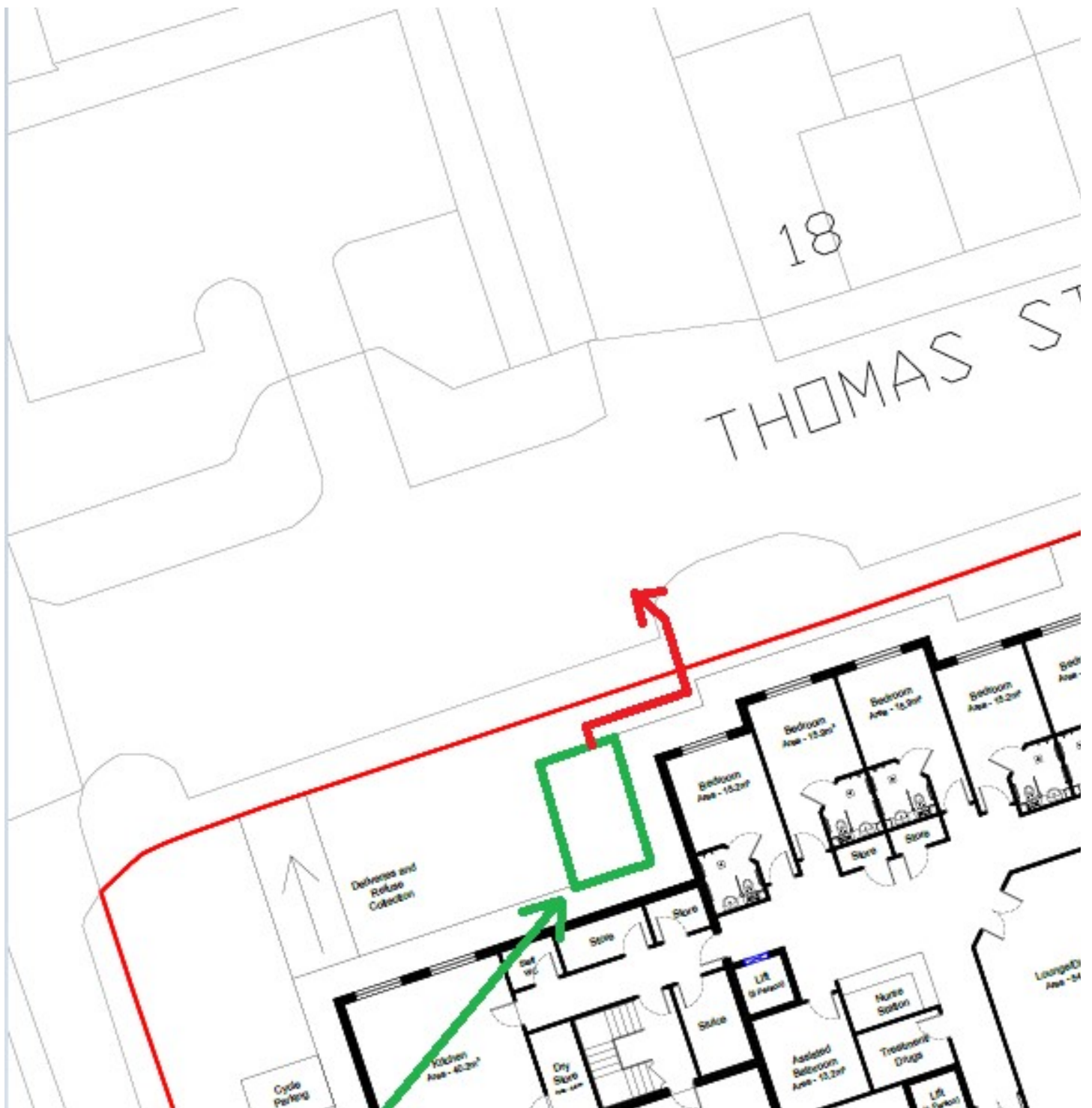
It is a material consideration that two existing access points into the site will be closed off, which is a highway benefit.

2. Waste Collection

We take issue with the Highway Officer's comment that refuse collection would '*be across a parking bay over full height kerbs*'. The street view image below from 2010 shows the refuse bin store area for the previous care home on the site. We have indicated the route that must have been used to empty the bins. You can see that the bins would not need moving between parked cars and there is a dropped kerb to transition the bins between the footway and the road. This proposed refuse collection arrangement would be no worse than that previously considered acceptable when the Council themselves operated the previous use on the site.



To replicate this process as part of proposed development, we could relocate the bin store closer to the dropped kerb service point, as shown below:

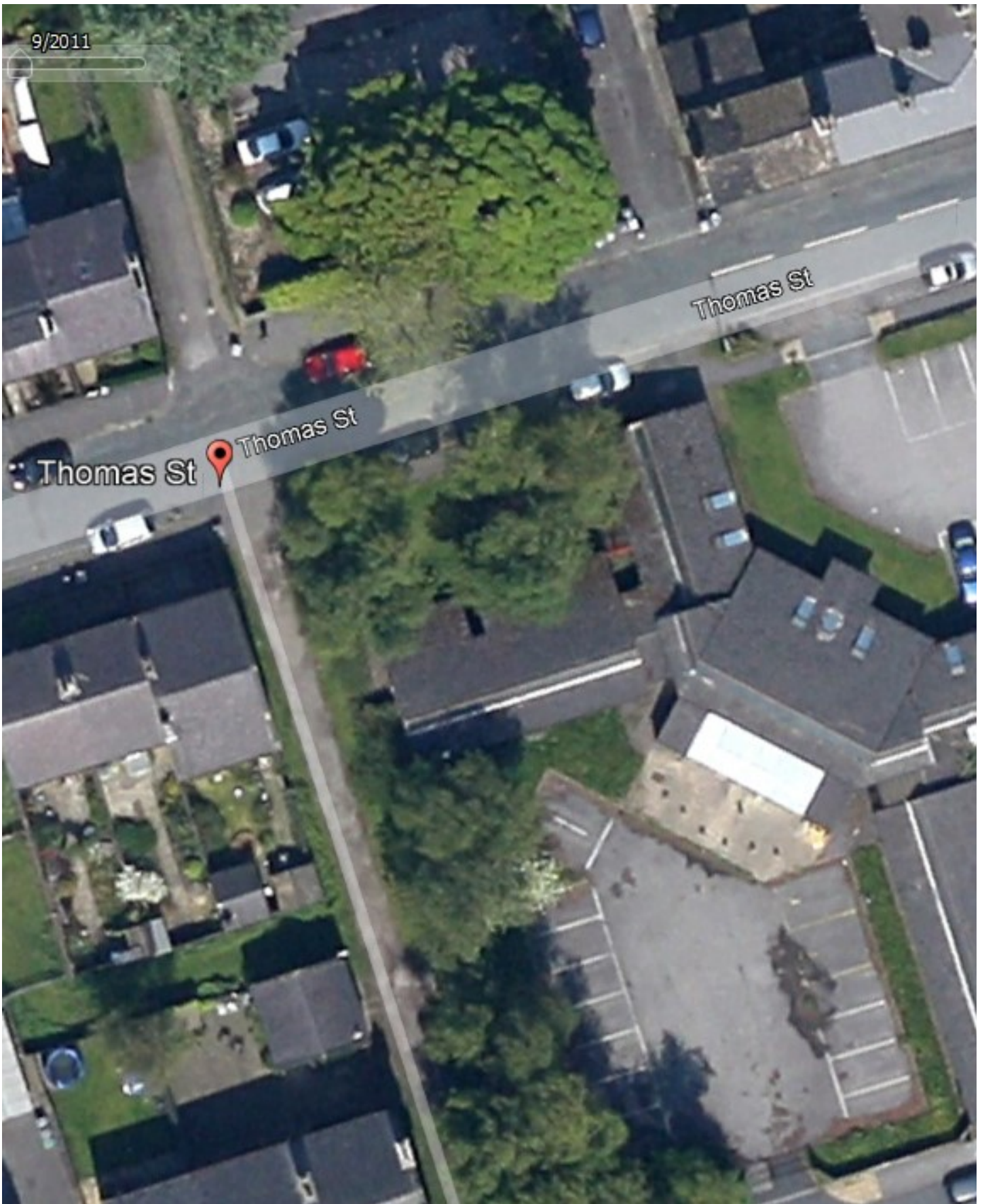


However, as the application is in outline, with site layout a Reserved Matter, this detail can be addressed at the Reserved Matter stage.

3. Service Vehicles

With regards to general servicing, deliveries by small vans can use the development car park off Brian Street, alternatively they could simply park on street where space is available, close to the site, such as the laybys on Thomas Street or Thorncliffe Street. As the development is for an end-of-life care home, such deliveries are likely to be infrequent. The submitted Transport Assessment sets out that TRICS data and predicts that the care home would only

generate one service delivery every two days. Again, this informal service arrangement would be no worse than the situation that was previously considered acceptable by the Council when they themselves operated the previous use on the site. The image below shows that the previous use did not provide dedicated off-street servicing:



Given the stance so far by the Highway Officer I see little point in reconsulting with them on this and therefore on behalf of the applicant, I am requesting that you consider these issues further yourself and reach your own judgment on the application overall, and then determine it as soon as possible.

Yours Sincerely,

Mark Krassowski BA(Hons) BSc MRICS
Managing Director
Walsingham Planning
Brandon House, King Street, Knutsford, WA16 6DX
Phone: 01565 757500 Fax: 01565 757501 Mobile: 07825 990698
Email: mark.krassowski@walsingplan.co.uk
www.walsinghamplanning.co.uk



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From: Steve Bourne <sb@muller-property.co.uk>
Sent: 02 February 2023 09:14
To: Bruce Risk <Bruce.Risk@walsingplan.co.uk>; Matthew Buckle <mb@muller-property.co.uk>
Cc: Mark Krassowski <Mark.Krassowski@walsingplan.co.uk>
Subject: RE: 2022/92194 Thomas St, Lindley

From: Richard Riggs <Richard.Riggs@kirklees.gov.uk>
Date: 2 February 2023 at 08:22:45 GMT
To: Bruce Risk <Bruce.Risk@walsingplan.co.uk>
Subject: RE: 2022/92194 Thomas St, Lindley

Good morning Bruce

We've heard back from KC Highways. Please see their comments below:

"It is not considered acceptable that access/egress for waste collection should be across a parking bay over full height kerbs and between parked cars. This is not acceptable for Waste collection or for any other deliveries to the site.

Furthermore Service vehicles parked at this location will block or obstruct Thomas Street which is clearly unacceptable.

There are also issues with visibility from the proposed access onto Brian Street due to the existing on-street parking at this location.

Highways Development Management would therefore recommend refusal of this application".

Can you please let me know whether the applicant intends to revise the proposal at all in light of these statutory consultee comments?

Kind regards

Richard Riggs
Senior Planning Officer

Planning and Development Service
Growth & Regeneration
PO Box 1720, Huddersfield, HD1 9EL
Tel: 01484 221000 (Shortcode: 75807)
Website: www.kirklees.gov.uk



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Appendix 2

***Covering Email from Walsingham Planning (3rd March 2023), with Written Opinion of
Piers Riley-Smith (2nd March 2023)***

Laura Beech

Subject: FW: RE: 2022/92194 Thomas St, Lindley
Attachments: Thomas Street Counsel Opinion.pdf

From: Mark Krassowski
Sent: Friday, March 3, 2023 11:37 AM
To: Richard.Riggs@kirklees.gov.uk; David.Wordsworth@kirklees.gov.uk
Cc: Steve Bourne <sb@muller-property.co.uk>; Bruce Risk <Bruce.Risk@walsingplan.co.uk>
Subject: RE: 2022/92194 Thomas St, Lindley

Dear David & Richard,

Further to Bruce's email of 22nd February regarding the above, Walsingham Planning have sought Counsels Opinion on the Highways/Access Safety grounds raised by you Highway engineer. The attached Opinion has come from Piers Riley-Smith of Kings Chambers in Manchester. We went to Piers because he does a lot of Highway Planning work and is also the Assistant Editor of the Encyclopedia of Highway Law & Planning Practice.

You need to read the attached carefully. Not only does it advise that the concerns on Highway Safety being raised by the Highway Officer are unsubstantiated and go against the guidance in Manual for Streets 2, which Development Plan Policy LP21 and the Councils Highway Design Guide both endorse and recommend are followed, but it also points out that the approach in relation to servicing and refuse collection taken by the Highway Officer is factually wrong.

There is also an important general legal principle raised by Counsel that you as Planning Officers should be aware of in terms of the wider determination of the application(see paras 31-39). This goes to the approach to be taken in relation to Section 38(6) of the Planning & Compulsory Purchase Act 2004.

Counsel concludes that a refusal of the application would be contrary to policy and factually incorrect. The decision will be unreasonable given this would fall into an express example of '*substantive unreasonable behaviour*' as defined at Para 49 of the PPG, such that it would trigger a costs award at Appeal.

Obviously you will need time to reconsider your position and so I confirm that we will agree to an EOT until Friday 17th March.

Kind regards

Mark

Mark Krassowski BA(Hons) BSc MRICS
Managing Director
Walsingham Planning
Brandon House, King Street, Knutsford, WA16 6DX
Phone: 01565 757500 Fax: 01565 757501 Mobile: 07825 990698
Email: mark.krassowski@walsingplan.co.uk
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THOMAS STREET, LINDLEY

ADVICE

1. I am asked to advise Walsingham Planning ('WP') on behalf of their Client – Muller Property Group – ('the Client') in relation to their application to Kirklees Council ('the Council') to develop 21 Thomas Street, Lindley, Huddersfield, HD3 3JJ ('the Site') as a care home.
2. The Council's Planning Officer has indicated that they will be refusing permission on highways grounds based on their Highway Officer's concerns relating to on street parking and servicing/bin collection.
3. I have been asked to advise on the prospects of an appeal if the Council were to refuse on this basis.

Factual Background

4. The Site previously had a building which was used as a Care Home and Council Offices before being demolished in 2013. The Site had three accesses – one onto Thomas Street and two onto Brian Street – which led respectively to a 12, 16 and 8 space car park.
5. The Site was granted outline permission in 2012 for 12 semi-detached dwellings.
6. The Client has applied for outline (apart from access) permission (under ref 2022/92194) for a new residential Care Home (use class C2) for 60 residents, together with 21 car parking spaces with access from Brian Street ('the Proposal'). As part of the proposal the Client is blocking up the other two accesses.
7. The Proposal will include a bin store to the rear of the Site adjacent to Thomas Street. This will allow for the bins to be kept off the pavement until they are emptied via dropped kerb next to a layby on Thomas Street. This was the same arrangement as the

previous Care Home/Offices (and photographic evidence has been provided to the Council showing this).

8. Brian Street is a 30-mph road which allows for on-street parking.
9. The Proposal is supported by a Transport Assessment ('TA') prepared by Sanderson Associates.
10. In relation to the proposed Site Access the TA found that:

4.2.3 Vehicular access to the site is proposed from an improved site access located on Brian Street towards the western end of the site frontage, in the vicinity of one of the former accesses to the site. A dropped kerb pedestrian crossing will be provided at the site access bellmouth and incorporating tactile paving. The access visibility is shown with 43m in both directions on Brian Street measured from a minor road distance of 2.4m. The visibility is appropriate for the speed limit on Brian Street

11. In relation to the servicing and bin arrangements the TA found that:

4.4.2 Refuse collection and servicing is proposed kerbside from Thomas Street. There is an existing 2m layby adjacent to the site on Thomas Street which would can be used for servicing if available. Thomas Street is approximately 6.0m wide (excluding the layby) and therefore there would be room to pass a service vehicle in the event that the layby is occupied.

12. In relation to the level of service deliveries it noted that:

The TRICS data predicts that the Care Home would generate one service delivery every two days.

13. There have been no accidents on the surrounding streets of the Site for the last five years (TA – 3.4.2). Furthermore, Sanderson Associates have confirmed that there have been no injury road traffic accidents for the past 23 years associated with the retained access. This period includes the 10 years the previous Care Home/Offices were operational with a 16-space car park.

14. The TA confirmed at 8.11 that:

This Transport Statement demonstrates that the development will not have an unacceptable impact on highway safety and that the residual cumulative traffic impact is not severe. The development is therefore in accordance National Planning Policy Framework policy 111 and consequently the planning application should be supported by the Council on transport grounds

15. The Council's Highway Officer gave an initial response on 28 November 2022

The access visibility is shown with 43m in both directions on Brian Street measured from a minor road distance of 2.4m. The visibility is appropriate for the speed limit on Brian Street

16. However, they made two negative comments (worded slightly different from Highway Safety vs Highway Development):

Highway Safety Section Comments

1, Parking is in high demand in this area. Visibility from that access will be reduced as parking will take place up to the entrance point.

2, The implication of having the bin store and deliveries on Thomas St exiting on to an existing parking lay by is that when the site comes into operation Highway safety will receive complaints from the development that they cannot get the bins emptied or deliveries in or out.

Highways Development Management comments:

1, Servicing looks to be a problem from an existing layby on Thomas Street which is well used for parking already and alternative servicing proposals need to be considered.

2, Waiting restrictions should be shown to be provided to either side of the junction to assist visibility on to Brian Street.

17. The Highway Development Management also made a positive comment reflecting the benefit that would be gained from stopping up the two existing accesses:

3, Existing accesses on Brian Street and Thomas Street should be shown to be closed, taken up and reinstated as footway.

18. WP gave a substantive response to the Council on 5 January 2023. This raised several points I will address below and so I will not quote from it here.

19. On 1 February 2023 the Council's Highway Officer provided a further comment noting:

It is not considered acceptable that access/egress for waste collection should be across a parking bay over full height kerbs and between parked cars. This is not acceptable for Waste collection or for any other deliveries to the site.

Furthermore Service vehicles parked at this location will block or obstruct Thomas Street which is clearly unacceptable.

There are also issues with visibility from the proposed access onto Brian Street due to the existing on-street parking at this location.

Highways Development Management would therefore recommend refusal of this application

20. WP provided a further response on 3 February 2023 – again I will address these points below.

21. On 15 February 2023 the Council's Planning Officer noted:

Unfortunately, I am writing this application up for refusal on highways/access safety grounds. As has been mentioned below, there seems to be a fundamental disagreement between parties on this matter.

22. This was followed on 17 February 2023 with confirmation from the Planning Officer that:

As below, I am recommending refusal on highways/access grounds and have sent my report for authorisation.

Law

23. S.38 (6) of the Planning and Compulsory Purchase Act 2004 requires decision makers to make their determination '*in accordance with the plan unless material considerations indicate otherwise*'.

24. The principles of relation to the s.38 (6) duty were summarised by Lindblom LJ in **BDW Trading Ltd (t/a David Wilson Homes (Central, Mercia and West Midlands)) v Secretary of State** [2017] P.T.S.R. 1337 at [21]:

- (i) *The section 38(6) duty is a duty to make a decision (or “determination”) by giving the development plan priority, but weighing all other material considerations in the balance to establish whether the decision should be made, as the statute presumes, in accordance with the plan.*
- (ii) *The decision-maker must understand the relevant provisions of the plan, recognising that they may sometimes pull in different directions.*
- (iii) *Section 38(6) does not prescribe the way in which the decision-maker is to go about discharging the duty. It does not specify, for all cases, a two-stage exercise, in which, first, the decision-maker decides “whether the development plan should or should not be accorded its statutory priority”, and secondly, “if he decides that it should not be given that priority it should be put aside and attention concentrated upon the material factors which remain for consideration”.*
- (iv) *The duty can only be properly performed if the decision-maker, in the course of making the decision, establishes whether or not the proposal accords with the development plan as a whole.*
- (v) *The duty under section 38(6) is not displaced or modified by government policy in the NPPF. Such policy does not have the force of statute. Nor does it have the same status in the statutory scheme as the development plan. Under section 70(2) of the 1990 Act and section 38(6) of the 2004 Act, its relevance to a planning decision is as one of the other material considerations to be weighed in the balance.*

Policy

25. The NPPF is an important material consideration in the determination of planning applications. Paragraph 111 of the NPPF sets out:

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.

26. Policy LP21 of the Kirklees Local Plan 2019 (‘the Local Plan’) deals with ‘Highways and Access’. It notes that:

New development will 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.

.....

All proposals shall:

f) take into account access for emergency, service and refuse collection vehicles;

27. The supporting text to Policy LP21 expressly references Manual for Streets ('MfS'):

10.79 Applicants/developers should follow best practice guidance set out in the Department for Transport's 'Manual for Streets' 2007. This document continues to provide useful guidance on how to achieve accessible and well designed streets and the council will encourage its use within development proposals

28. This is also the case in the Council's Kirklees Highway Design Guide SPD 2019 – which adopts the MfS approach as to visibility.

29. MfS 2 expressly deals with the issue of vehicles parking in visibility splays at 10.7.1:

Parking in visibility splays in built-up areas is quite common, yet it does not appear to create significant problems in practice. Ideally, defined parking bays should be provided outside the visibility splay. However, in some circumstances, where speeds are low, some encroachment may be acceptable.

Advice

30. I am asked to advise on whether the Council's highways RfR would be justified, and whether the Client should appeal if such a decision were made. I will address each of the elements of the 'highways' RfR but it is important to first make a general point.

31. The Council are required to determine the Proposal according to policy (both local and national) in line with s.38 (6) (per **BDW Trading**) and this is the role of the Planning Officer (or planning committee).

32. A Highway Officer should not determine a planning application. It is often the case that a consultee will raise concerns or issues, but it is the role of the Planning Officer to consider whether those issues are relevant and applicable in planning terms.

33. If they are – because they are relevant to policy or to a material consideration- then they need to be considered as part of the overall planning balance under s.38 (6).
34. It is of concern that there does not seem to have been any consideration of how the issues raised by the Highway Officer relate to policy. This is particularly important in this case for two reasons.
35. Firstly, the concerns purport to relate to highway issues. The NPPF is clear that applications should only be refused on highway grounds if there would be an “*unacceptable impact on highway safety*” or “*the residual cumulative impacts on the road network would be severe*”. The Highway Officer’s comments do not allege either of these points and Sanderson Associates positively confirm that they will not occur. Therefore, the Council should not be refusing permission on highway grounds and to do so would be contrary to 111 of the NPPF.
36. Secondly, the Council have seemingly ignored all of the planning benefits that the Proposal would bring. The Council – by not suggesting any other RfR – clearly accept that this Proposal would provide a much-needed care home scheme on vacant land to address the significant shortfall in care home bedspaces in the district. It is sustainable development which is in accordance with both the Local Plan and the NPPF.
37. The only possible conflict that the Council could allege would be against Policy LP21. It is critical to note that LP21 does not state anywhere that a proposal should be refused if they don’t comply (only 111 addresses this). Instead, any conflict would have to be viewed in the context of the development plan as a whole. So even if there were minor conflict it would not be sufficient to outweigh the numerous accepted benefits of the Proposal which would remain in accordance with the development plan as a whole (per **BDW**).
38. Therefore, the Planning Officer has not properly considered the Highway Officer’s brief comments of ‘unacceptability’ in the proper context of their wider planning determination.
39. Otherwise, they would have reached the conclusion that they could not refuse on highway grounds because the Proposal accords with the Local Plan, and the NPPF

expressly prevents the Council from refusing solely on highway concerns that do not have an unacceptable impact on safety (which is not alleged by the Highway Officer). From either perspective the Council's current stance would be contrary to s.38 (6) and therefore would not be defensible at appeal.

40. Despite this I will briefly explain why the two specific concerns of the Council do not have merit.

i) *Safety of Access*

41. The Highway Officer agrees with the TA that the access would meet the visibility splay requirements. These requirements come from MfS which the Council adopts.

42. The Council are concerned of the impact of on-street parking affecting the visibility from the access, and believe this justifies refusing the Proposal. But they would only be entitled to do this if this caused an unacceptable safety impact. The Highway Officer does not expressly claim this, nor explain why there would be such an impact. However, if the Council attempted to argue this at appeal I believe they would be unsuccessful for a number of reasons.

43. Firstly, the Council's stance is inconsistent with the MfS 2 which their own policy directly relies upon. It is agreed that the Proposal meets the requirements set out in MfS 2 but the Council then ignore that there is express guidance dealing with their concern:

Parking in visibility splays in built-up areas is quite common, yet it does not appear to create significant problems in practice. Ideally, defined parking bays should be provided outside the visibility splay. However, in some circumstances, where speeds are low, some encroachment may be acceptable

44. The Council have given no explanation as to why they are ignoring a key part of the guidance which they have adopted and are applying. If they were to apply it, then – given the low speed of Brian Road – they would have to accept that the access was acceptable.

45. Secondly, there is no evidence that such an access would be unacceptable or dangerous and there is instead evidence that it is safe.

46. The Council have produced no evidence to back up their assertion that the access would be unsafe if cars were to park in the visibility splay. Instead, such an assertion is contrary to the fact that there have been no accidents reported in the last 23 years related to the access. This is of critical importance given the access was used for a 16-space car park serving the existing care home until 2010.
47. The fact that the access to a comparably sized car park was used safely for 10 years without any accidents is strong evidence that the access is safe despite the presence of on-street parking. This is before consideration is then given to the fact that the Client is widening the access to make it even safer.
48. Thirdly, the Planning Officer has ignored the ‘access benefits’ of the Proposal in that it is closing two of the existing accesses and replacing them with a pedestrian footway. This is making the Site safer in highway terms.
49. Therefore, I think that there is a very good chance that the Council’s conclusion in relation to the site access would be successfully overturned at Appeal. It is contrary to the national guidance they have adopted, unevidenced, and ignores the fact the Proposal actually improves highway safety.

ii) *Service Provision*

50. The Highway Officer’s second concern is that service/waste vehicles will block Thomas Street, and that waste collection would be across full height kerbs and between parked cars.
51. The second element – i.e the waste collection route – is factually wrong as was illustrated to the Council by WP’s email on 3 February 2023. This shows that the Proposal would adopt the same arrangement as was previously used by the Care Home/Offices – which allows a route from the bin store to Thomas Street via a dropped kerb. The Highway Officer’s concerns are therefore factually wrong.
52. In relation to the wider concern about the blocking of Thomas Street – there are several reasons why this would be undefendable at appeal.

53. Firstly, it is factually wrong. As set out in the TA at 4.4.2 Thomas Street is wide enough for a vehicle to pass a service vehicle even if it has not been able to fit into the layby:

Thomas Street is approximately 6.0m wide (excluding the layby) and therefore there would be room to pass a service vehicle in the event that the layby is occupied.

54. This means the Council's concern will not arise.

55. Secondly, even if a service vehicle were to block Thomas Road it is entirely unclear what adverse effect this has in planning terms.

56. The TA sets out that a service vehicle would only attend the Proposal once every two days. The smaller service vehicles will use the car park and not stop on the street. This leaves a waste vehicle which may have to occasionally stop on Thomas Street.

57. However, when it does this will be only for a matter of minutes to empty the easily accessible bins.

58. The impact that the Council is concerned about will only occur – at worst – once every two days for a few minutes. During these few minutes cars will be able to pass the bin lorry regardless of whether it is in the layby or not.

59. I am entirely unclear to what planning harm such a short-term impact can be said to cause. It cannot be said to cause a severe residual impact on the network nor has the Council identified how this will cause safety issues.

60. It is a common occurrence for drivers to encounter waste vehicles on the road but that doesn't make the highway unacceptably unsafe. The on-street refuse collection arrangements would be the same as all the existing Thomas Street properties – and there is no evidence of any injury causing accidents in the last five years on Thomas Street. Further supporting the lack of evidential substance to this concern.

61. Therefore, the Council's concerns about the servicing provision are factually incorrect and there is no explanation as to how the use of Thomas Street for larger servicing

vehicles would lead to any planning harm, let alone an unacceptable impact that justified refusal as required by 111 of the NPPF. There would be a very good chance of challenging such a refusal at appeal.

Conclusion

62. Overall, I would advise that the Client appeal if the Council were to refuse on the suggested highway RfR. The Planning Officer has adopted the Highway Officer's concerns without explaining how they relate to planning policy contrary to s.38 (6).

63. If the Planning Officer had done so, then they would have realised that the concerns do not justify a refusal in either local or national policy. This is before consideration is given to the fact that several of the Highway Officer's concerns are factually wrong.

64. Furthermore, given such a refusal would be contrary to policy and also factually incorrect I think that the Council's decision would be unreasonable (so as to trigger a costs award) given this would fall into an express example of 'substantive unreasonable behaviour' as defined at paragraph 49 of the PPG on Appeals:

Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Examples of this include:

- *preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.*
- *vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.*

65. I advise accordingly.

PIERS RILEY-SMITH
2nd MARCH 2023
KINGS CHAMBERS
MANCHESTER, LEEDS, AND BIRMINGHAM

APPENDIX 3

Automatic Traffic Count Data (March / April 2023)

Lindley ATC, Brian Street

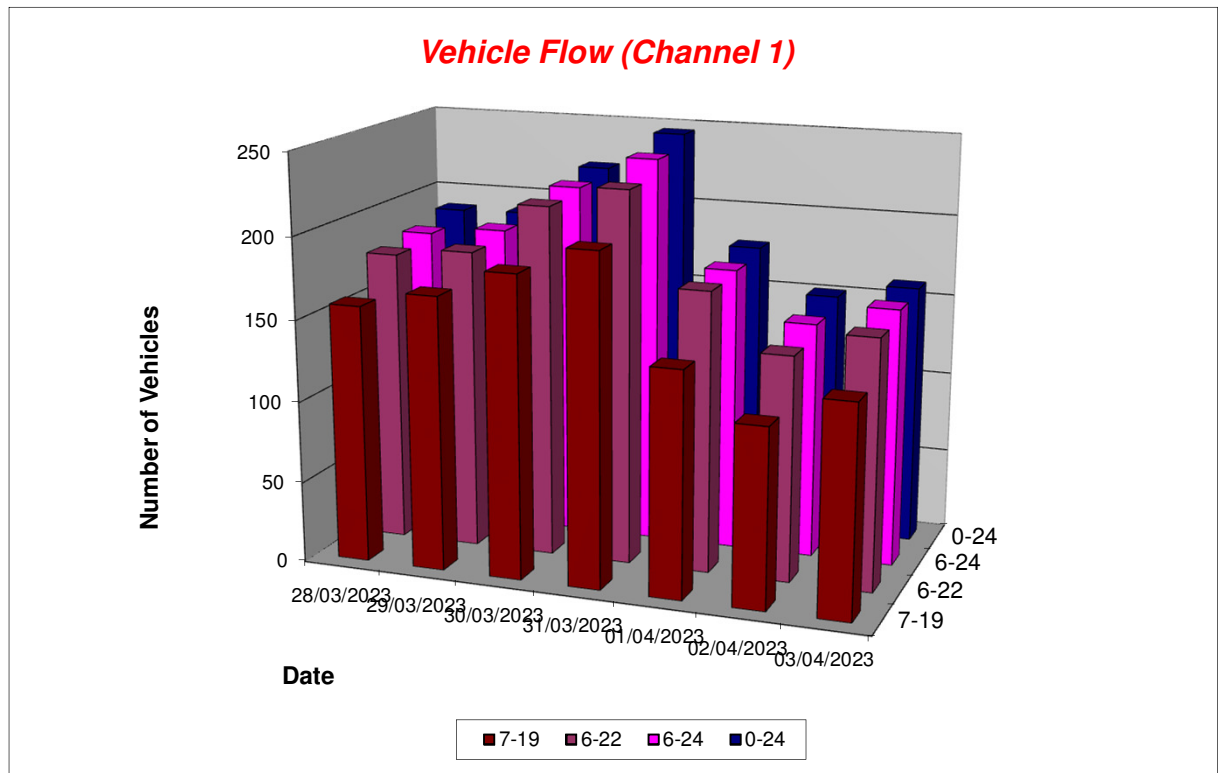
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Channel 1 - Eastbound

Vehicle Flow

Week 1

Hr Ending	28/03/2023 Tuesday	29/03/2023 Wednesday	30/03/2023 Thursday	31/03/2023 Friday	01/04/2023 Saturday	02/04/2023 Sunday	03/04/2023 Monday	Weekday Average	Average
1	1	0	1	3	0	2	1	1	1
2	0	0	1	2	1	1	1	1	1
3	1	0	0	2	0	2	0	1	1
4	1	0	1	1	2	0	0	1	1
5	0	0	0	0	1	0	0	0	0
6	3	2	1	0	0	1	0	1	1
7	4	1	3	2	3	4	3	3	3
8	9	9	8	10	0	3	3	8	6
9	19	25	20	22	5	3	16	20	16
10	12	14	16	14	10	2	13	14	12
11	9	9	19	16	11	9	12	13	12
12	9	10	16	6	21	9	10	10	12
13	12	10	12	13	13	14	7	11	12
14	8	9	11	22	10	13	10	12	12
15	16	14	9	13	11	14	16	14	13
16	21	30	29	35	9	16	10	25	21
17	17	15	16	17	18	10	8	15	14
18	11	14	18	18	16	10	12	15	14
19	15	9	11	16	14	7	12	13	12
20	8	3	12	10	13	10	7	8	9
21	4	3	8	4	15	9	9	6	7
22	5	9	7	10	3	5	5	7	6
23	3	1	2	5	0	4	2	3	2
24	1	3	1	5	2	3	3	3	3
7-19	158	168	185	202	138	110	129	168	156
6-22	179	184	215	228	172	138	153	192	181
6-24	183	188	218	238	174	145	158	197	186
0-24	189	190	222	246	178	151	160	201	191

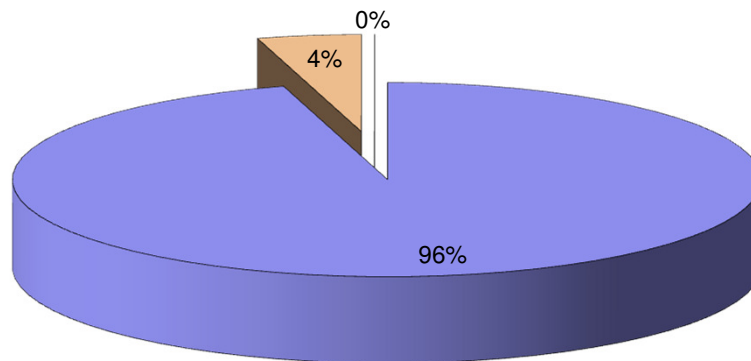


Lindley ATC, Brian Street

Produced by Road Data Services Ltd.

Channel 2 - Westbound		Vehicle Class			Week 1
Classes Day / Time	Car / LGV / Caravan - 1	OGV1 / Bus - 2,3,5,6,7,12	OGV2 - 4,8,9,10,11,13	TOTAL - 1-13	
28/03/2023					
7-19	157	4	0		161
6-22	179	5	0		184
6-24	182	5	0		187
0-24	186	8	0		194
29/03/2023					
7-19	163	7	0		170
6-22	183	7	0		190
6-24	189	7	0		196
0-24	192	7	0		199
30/03/2023					
7-19	184	11	0		195
6-22	212	11	0		223
6-24	217	11	0		228
0-24	219	12	0		231
31/03/2023					
7-19	193	12	0		205
6-22	226	12	0		238
6-24	235	13	0		248
0-24	240	15	0		255
01/04/2023					
7-19	132	4	0		136
6-22	166	5	0		171
6-24	171	5	0		176
0-24	175	5	0		180
02/04/2023					
7-19	108	1	0		109
6-22	137	4	0		141
6-24	145	4	0		149
0-24	152	4	0		156
03/04/2023					
7-19	132	9	0		141
6-22	153	11	0		164
6-24	159	11	0		170
0-24	161	11	0		172
Average					
7-19	153	7	0		160
6-22	179	8	0		187
6-24	185	8	0		193
0-24	189	9	0		198

Total Vehicle Class Distribution

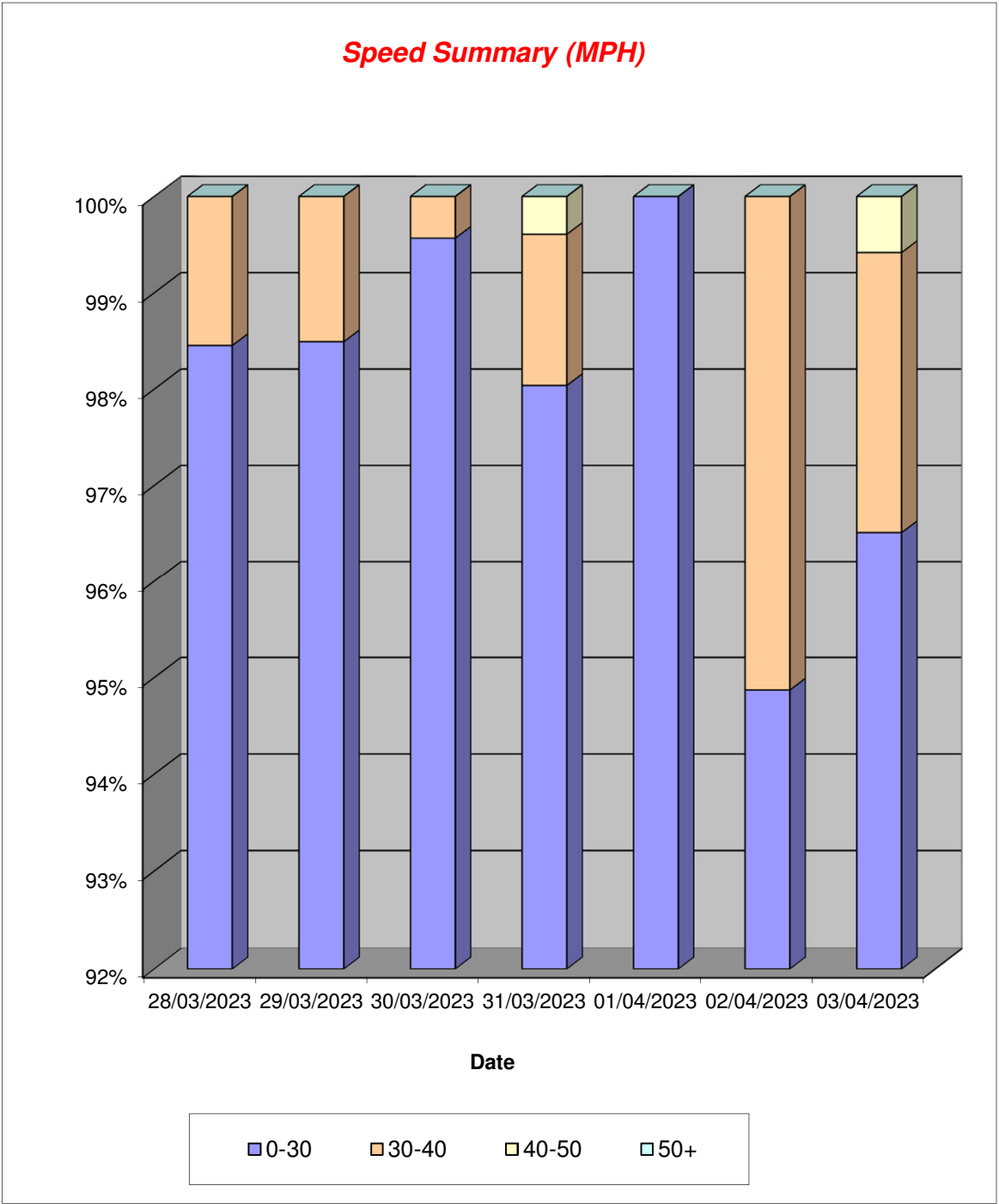


Lindley ATC, Brian Street

Produced by Road Data Services Ltd.

Channel 2 - Westbound Speed Summary Week 1

Speed (MPH)	28/03/2023 Tuesday	29/03/2023 Wednesday	30/03/2023 Thursday	31/03/2023 Friday	01/04/2023 Saturday	02/04/2023 Sunday	03/04/2023 Monday
0-30	191	196	230	250	180	148	166
30-40	3	3	1	4	0	8	5
40-50	0	0	0	1	0	0	1
50+	0	0	0	0	0	0	0
TOTAL	194	199	231	255	180	156	172



Lindley ATC, Brian Street

Produced by Road Data Services Ltd.

Channel 2 - Westbound

Average Speed

Week 1

Hr Ending	28/03/2023 Tuesday	29/03/2023 Wednesday	30/03/2023 Thursday	31/03/2023 Friday	01/04/2023 Saturday	02/04/2023 Sunday	03/04/2023 Monday
1	23.4	22.6	16.1	19.2	-	18.3	19.8
2	-	6.4	29.8	15.3	21.8	24.7	-
3	15.1	-	-	34.3	-	20.1	16.4
4	19.1	-	22.6	33.0	23.2	-	-
5	-	-	-	-	26.1	11.8	-
6	24.3	15.4	-	-	-	19.3	-
7	20.0	5.6	-	26.3	14.9	20.1	-
8	13.9	13.5	17.1	20.3	6.0	22.5	9.0
9	19.3	16.5	20.1	16.9	22.4	16.4	16.5
10	18.0	15.1	17.4	17.5	18.3	-	19.5
11	15.3	13.8	14.3	16.7	12.1	15.8	14.5
12	16.6	17.7	15.4	18.1	18.6	23.0	17.6
13	12.0	19.1	17.4	16.1	15.2	20.5	20.1
14	18.8	20.7	15.7	18.8	16.8	18.8	19.9
15	17.1	19.4	18.8	18.7	16.9	23.1	18.4
16	13.3	16.8	15.7	16.8	18.5	22.1	20.4
17	18.6	19.2	17.6	19.4	18.2	19.7	17.0
18	21.5	19.0	20.5	19.8	22.5	18.6	18.2
19	20.6	19.2	18.2	18.0	22.0	19.0	21.8
20	17.9	22.7	17.3	21.0	21.5	20.5	21.4
21	18.6	20.5	20.5	23.4	19.4	19.8	23.2
22	26.0	23.2	23.3	21.5	20.8	22.4	25.6
23	17.5	16.3	18.6	23.2	22.8	20.9	18.4
24	12.0	21.3	19.3	19.6	16.7	17.5	19.8

10-12	16.0	15.8	14.7	17.4	16.2	20.9	16.0
14-16	14.6	17.9	17.0	17.5	17.7	22.7	19.4
0-24	17.7	18.2	17.9	18.7	18.7	20.2	19.3

Average (ALL)	18.6
Weekday Inter-Peak	16.7

Channel 2 - Westbound

85th Percentile

Hr Ending	28/03/2023 Tuesday	29/03/2023 Wednesday	30/03/2023 Thursday	31/03/2023 Friday	01/04/2023 Saturday	02/04/2023 Sunday	03/04/2023 Monday
1	25.4	-	-	20.7	-	20.3	-
2	-	-	-	16.3	-	-	-
3	-	-	-	-	-	21.9	-
4	-	-	-	-	24.4	-	-
5	-	-	-	-	-	-	-
6	-	-	-	-	-	-	-
7	24.9	-	-	-	25.0	27.4	-
8	17.7	16.1	25.2	28.5	-	23.9	-
9	24.7	20.7	26.9	23.5	26.2	17.4	23.6
10	25.5	20.2	24.4	21.1	22.8	-	23.4
11	20.1	17.8	19.0	21.3	17.0	17.4	18.2
12	22.2	23.5	21.3	23.4	23.5	29.2	23.6
13	15.6	23.4	22.7	21.8	21.6	27.6	24.6
14	23.8	26.8	22.4	24.1	21.3	24.2	25.8
15	23.3	24.5	24.2	24.7	22.7	31.3	25.0
16	18.3	20.8	21.0	22.6	24.7	26.2	26.8
17	22.7	25.9	22.9	26.1	23.7	26.5	21.9
18	25.9	25.0	24.7	25.0	26.5	25.3	22.7
19	27.4	26.0	22.5	23.4	24.4	24.8	26.1
20	23.9	30.0	23.8	25.8	24.5	26.6	27.3
21	26.7	23.4	24.8	27.9	24.7	26.0	32.1
22	30.9	28.5	27.8	26.6	25.8	25.4	33.0
23	21.3	22.4	23.0	34.4	24.3	23.7	20.4
24	-	23.2	20.3	21.4	18.5	21.2	21.2

10-12	21.4	21.2	19.9	22.4	22.1	27.2	21.2
14-16	20.3	22.6	22.6	23.4	23.7	29.4	26.0
0-24	24.0	24.1	23.9	24.8	24.5	26.4	25.4

85th %ile (ALL)	24.7
Weekday Inter-Peak	22.4

Lindley ATC, Brian Street

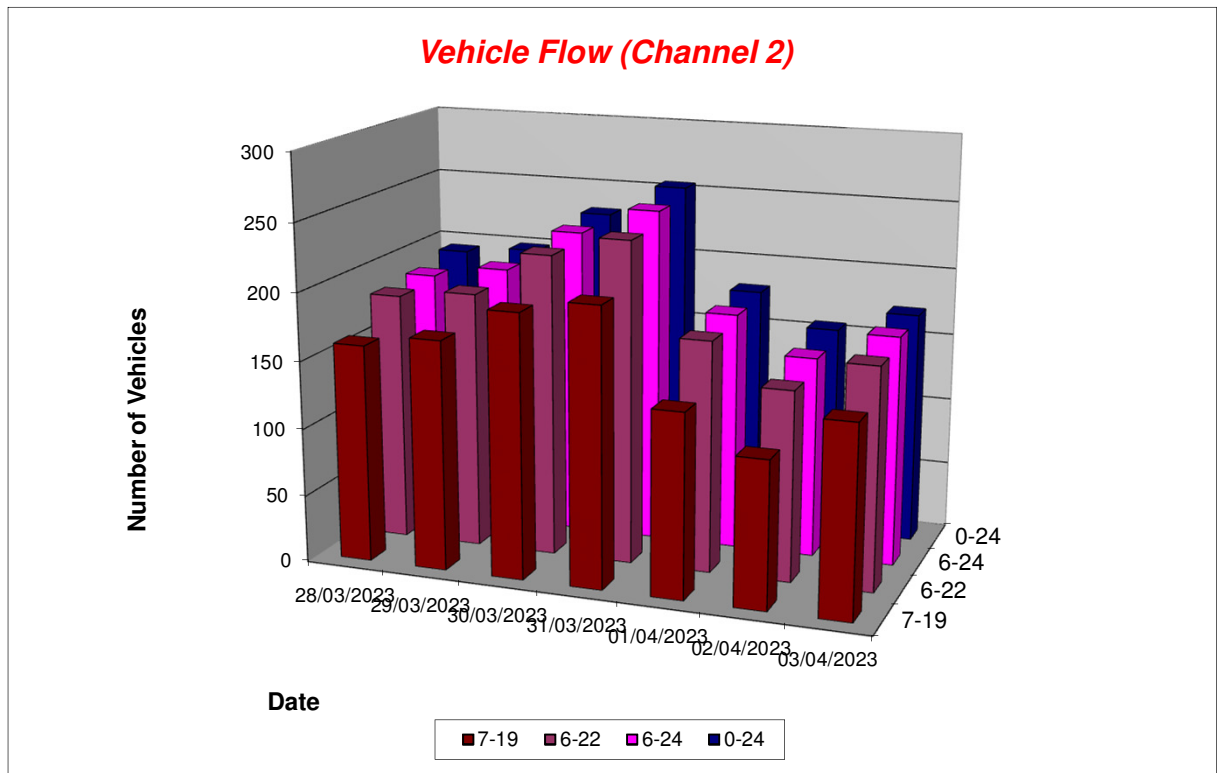
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Channel 2 - Westbound

Vehicle Flow

Week 1

Hr Ending	28/03/2023 Tuesday	29/03/2023 Wednesday	30/03/2023 Thursday	31/03/2023 Friday	01/04/2023 Saturday	02/04/2023 Sunday	03/04/2023 Monday	Weekday Average	Average
1	4	1	1	3	0	2	1	2	2
2	0	1	1	2	1	1	0	1	1
3	1	0	0	1	0	2	1	1	1
4	1	0	1	1	2	0	0	1	1
5	0	0	0	0	1	1	0	0	0
6	1	1	0	0	0	1	0	0	0
7	2	1	0	1	2	3	0	1	1
8	3	5	3	7	1	2	1	4	3
9	12	17	11	12	5	2	10	12	10
10	10	12	21	13	14	0	16	14	12
11	7	10	19	11	9	4	10	11	10
12	10	11	11	12	15	10	10	11	11
13	11	12	15	24	18	16	13	15	16
14	12	13	15	17	11	19	11	14	14
15	15	19	17	19	9	13	15	17	15
16	29	23	26	31	10	10	15	25	21
17	19	20	21	21	17	15	14	19	18
18	16	11	27	17	14	11	9	16	15
19	17	17	9	21	13	7	17	16	14
20	11	4	9	12	14	13	9	9	10
21	5	4	9	7	14	11	11	7	9
22	5	11	10	13	5	5	3	8	7
23	2	3	3	4	2	3	4	3	3
24	1	3	2	6	3	5	2	3	3
7-19	161	170	195	205	136	109	141	174	160
6-22	184	190	223	238	171	141	164	200	187
6-24	187	196	228	248	176	149	170	206	193
0-24	194	199	231	255	180	156	172	210	198

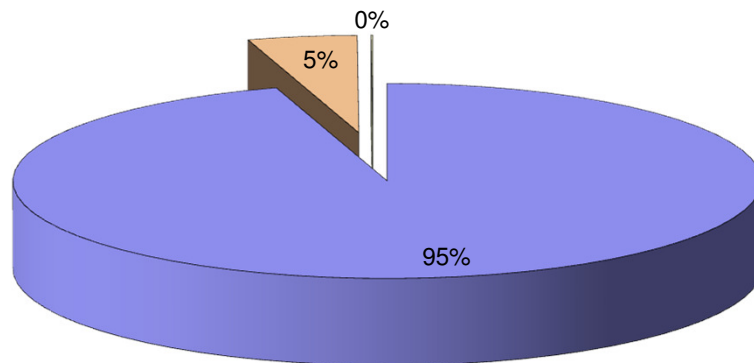


Lindley ATC, Brian Street

Produced by Road Data Services Ltd.

Channel 1 - Eastbound		Vehicle Class			Week 1
Classes Day / Time	Car / LGV / Caravan - 1	OGV1 / Bus - 2,3,5,6,7,12	OGV2 - 4,8,9,10,11,13	TOTAL - 1-13	
28/03/2023					
7-19	152	6	0		158
6-22	173	6	0		179
6-24	177	6	0		183
0-24	180	9	0		189
29/03/2023					
7-19	156	12	0		168
6-22	172	12	0		184
6-24	176	12	0		188
0-24	178	12	0		190
30/03/2023					
7-19	176	9	0		185
6-22	205	10	0		215
6-24	208	10	0		218
0-24	211	11	0		222
31/03/2023					
7-19	193	9	0		202
6-22	218	10	0		228
6-24	228	10	0		238
0-24	234	12	0		246
01/04/2023					
7-19	134	4	0		138
6-22	167	5	0		172
6-24	169	5	0		174
0-24	173	5	0		178
02/04/2023					
7-19	106	3	1		110
6-22	132	5	1		138
6-24	139	5	1		145
0-24	145	5	1		151
03/04/2023					
7-19	120	9	0		129
6-22	144	9	0		153
6-24	149	9	0		158
0-24	151	9	0		160
Average					
7-19	148	7	0		156
6-22	173	8	0		181
6-24	178	8	0		186
0-24	182	9	0		191

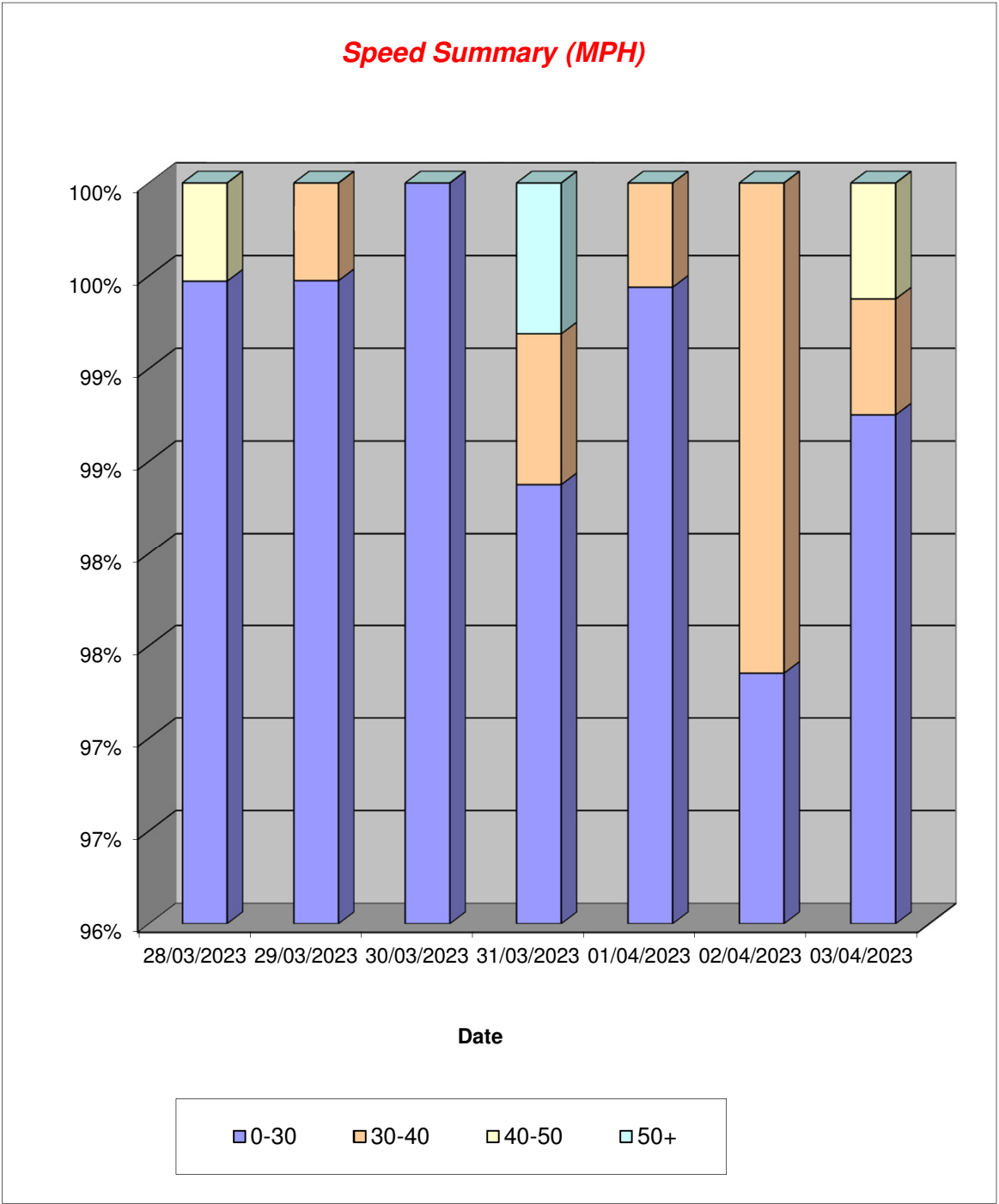
Total Vehicle Class Distribution



Lindley ATC, Brian Street

Produced by Road Data Services Ltd.

Channel 1 - Eastbound				Speed Summary			Week 1
Speed (MPH)	28/03/2023 Tuesday	29/03/2023 Wednesday	30/03/2023 Thursday	31/03/2023 Friday	01/04/2023 Saturday	02/04/2023 Sunday	03/04/2023 Monday
0-30	188	189	222	242	177	147	158
30-40	0	1	0	2	1	4	1
40-50	1	0	0	0	0	0	1
50+	0	0	0	2	0	0	0
TOTAL	189	190	222	246	178	151	160



Lindley ATC, Brian Street

Produced by Road Data Services Ltd.

Channel 1 - Eastbound

Average Speed

Week 1

Hr Ending	28/03/2023 Tuesday	29/03/2023 Wednesday	30/03/2023 Thursday	31/03/2023 Friday	01/04/2023 Saturday	02/04/2023 Sunday	03/04/2023 Monday
1	13.5	-	19.5	15.3	-	18.7	21.7
2	-	-	29.9	22.6	19.0	23.3	13.1
3	23.9	-	-	38.0	-	16.7	-
4	28.8	-	29.4	27.1	19.6	-	-
5	-	-	-	-	21.6	-	-
6	16.9	19.5	23.3	-	-	28.3	-
7	17.5	24.5	18.8	17.8	17.2	24.1	19.5
8	18.0	21.2	18.3	19.4	-	18.1	21.1
9	18.6	18.7	18.3	17.3	21.2	15.7	16.0
10	18.1	15.2	17.1	17.8	16.4	17.0	18.2
11	17.5	15.8	13.9	14.5	13.9	20.0	17.0
12	18.3	16.6	17.9	11.9	16.7	15.2	16.4
13	14.5	15.7	17.0	12.6	13.6	19.1	14.8
14	16.2	17.4	15.8	16.1	18.4	17.9	18.5
15	17.6	14.9	17.2	18.8	17.7	19.1	18.5
16	14.0	16.0	16.7	14.7	15.2	21.1	15.4
17	17.8	16.9	17.7	17.7	16.2	17.9	14.2
18	17.7	15.1	17.0	18.5	19.1	18.1	17.2
19	19.5	22.0	16.8	17.7	20.9	18.0	23.5
20	18.6	13.1	18.7	20.4	19.9	18.3	21.3
21	19.1	19.5	17.6	18.2	18.7	21.2	19.0
22	23.2	20.0	19.9	20.1	21.7	16.5	21.2
23	22.3	17.0	18.7	30.6	-	17.6	20.9
24	6.9	12.8	17.5	16.4	14.8	17.7	20.6
10-12	17.9	16.2	15.8	13.8	15.7	17.6	16.7
14-16	15.5	15.7	16.8	15.8	16.5	20.1	17.3
0-24	17.6	17.1	17.3	17.3	17.5	18.8	18.0

Average (ALL)	17.6
Weekday Inter-Peak	16.1

Channel 1 - Eastbound

85th Percentile

Hr Ending	28/03/2023 Tuesday	29/03/2023 Wednesday	30/03/2023 Thursday	31/03/2023 Friday	01/04/2023 Saturday	02/04/2023 Sunday	03/04/2023 Monday
1	-	-	-	19.4	-	21.9	-
2	-	-	-	23.8	-	-	-
3	-	-	-	60.1	-	18.5	-
4	-	-	-	-	21.4	-	-
5	-	-	-	-	-	-	-
6	20.8	21.1	-	-	-	-	-
7	19.9	-	25.9	19.8	23.3	24.8	20.3
8	22.9	25.8	24.1	25.3	-	20.2	24.0
9	23.5	23.3	24.1	23.0	23.9	20.6	22.2
10	22.4	20.6	22.0	24.0	21.6	21.8	22.0
11	23.7	20.6	18.8	19.7	17.2	24.5	20.7
12	24.8	22.0	23.1	17.5	22.0	19.3	22.2
13	21.7	21.5	22.2	16.8	18.2	23.6	20.3
14	21.8	23.6	18.8	21.4	23.5	23.0	24.5
15	22.6	20.7	21.1	23.4	23.1	22.7	24.7
16	18.7	20.6	20.6	19.0	17.8	25.8	21.2
17	23.3	20.6	21.2	22.4	21.7	25.2	17.0
18	22.5	19.4	20.8	23.8	23.7	22.3	22.8
19	23.8	24.9	22.5	20.8	25.6	24.7	31.4
20	25.3	18.2	24.8	25.5	24.8	22.9	26.7
21	25.0	24.7	20.7	19.6	21.5	28.3	22.6
22	34.6	26.3	23.4	24.8	28.4	21.6	23.8
23	25.9	-	23.5	42.8	-	18.3	23.7
24	-	17.2	-	18.4	24.2	20.2	24.9
10-12	24.3	21.4	21.2	19.2	20.6	22.6	21.5
14-16	20.6	20.8	20.7	20.6	21.0	24.5	23.6
0-24	23.6	22.5	22.3	23.9	22.8	24.0	23.9

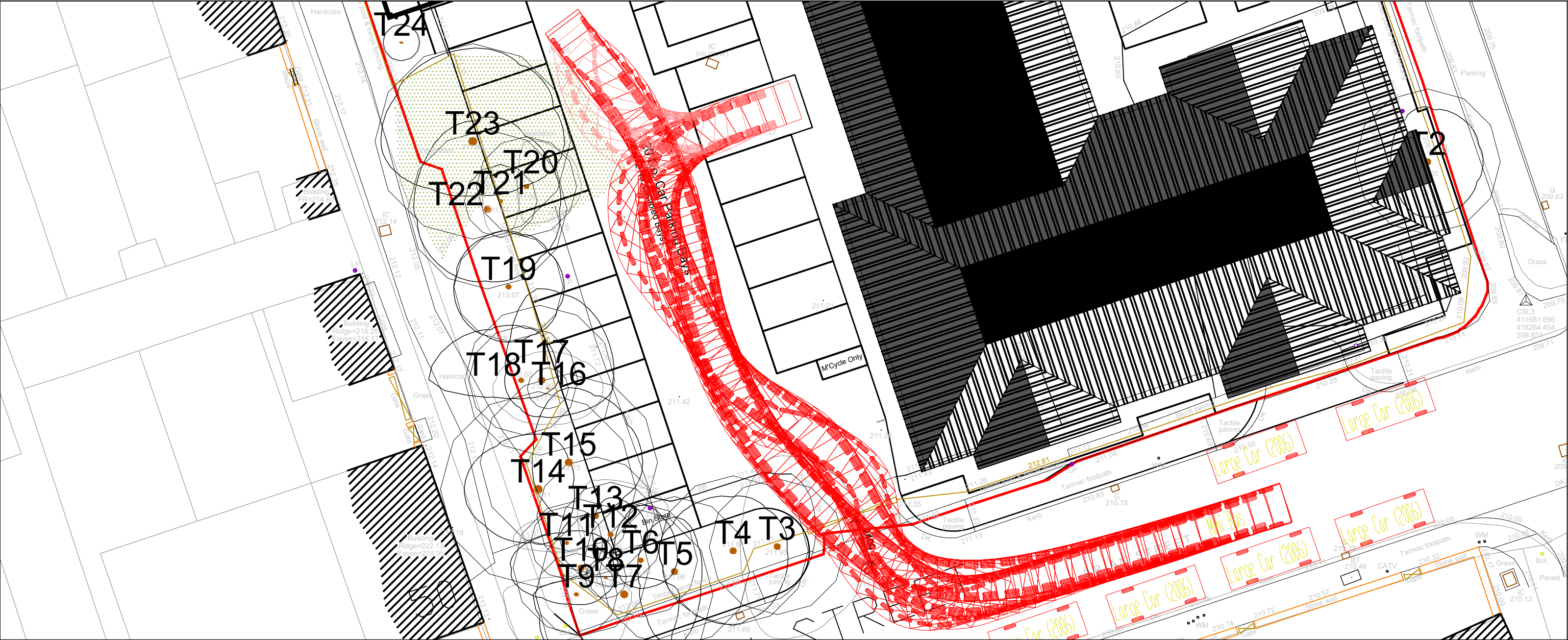
85th %ile (ALL)	23.3
Weekday Inter-Peak	21.3

APPENDIX 4

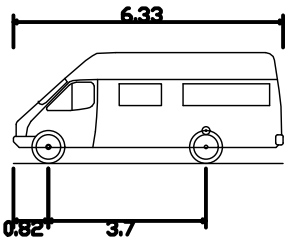
Visibility at Site Access (Ref. 152986-001 Rev A)

APPENDIX 5

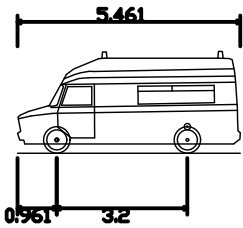
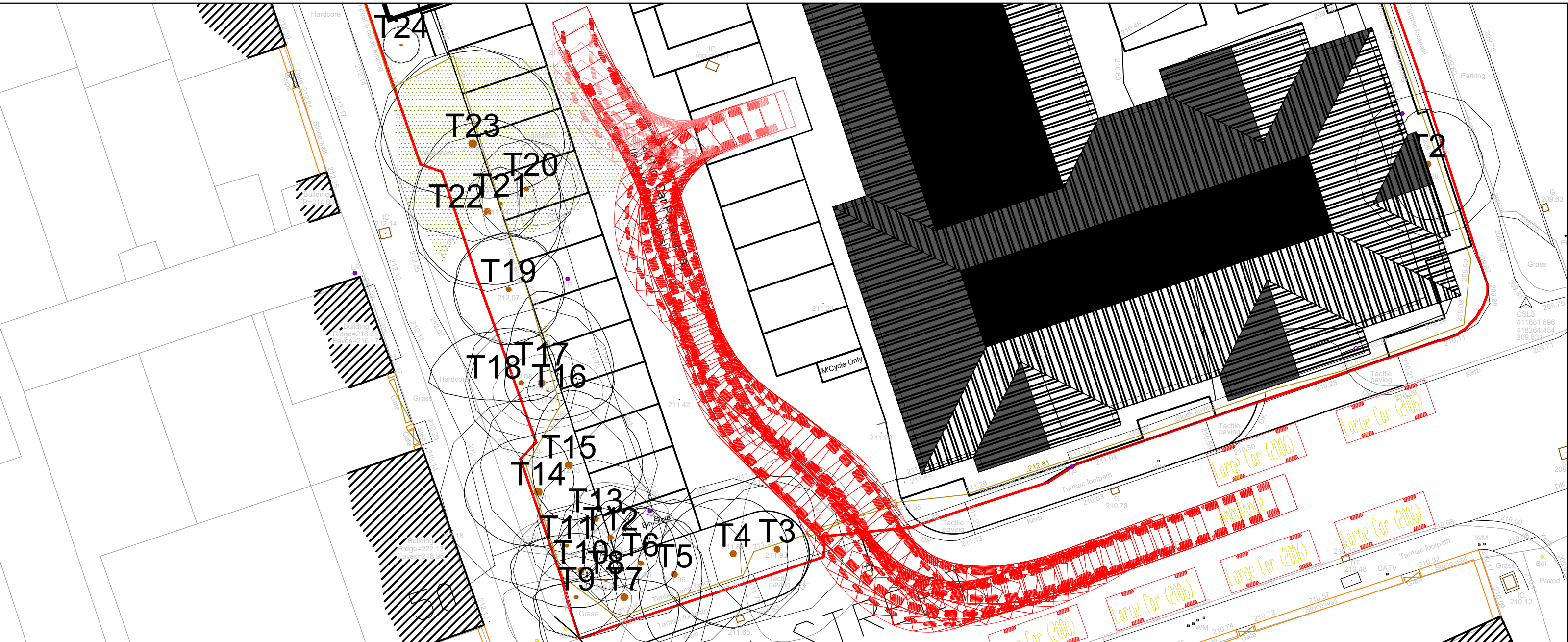
Swept Path Analysis (Ref. 152986-002 Rev A and 152986-003 Rev A)



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- The consultant shall not be liable for the use by any person of any document for any purpose other than that for which the same were provided by the consultant.
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- The locations of utilities apparatus, if shown, is reproduced from plans supplied to the consultant, although care has been taken when duplicating this information. These locations are approximate only and no guarantee can be given for their accuracy. It is the client's or it's appointed agent/contractors responsibility to verify the exact locations on site by hand dug trial holes or other appropriate means prior to mechanical excavation.
- Service connections are not shown but their presence should be anticipated.
- Reference to any third party equipment shown on this drawing was only relevant at the time the drawing was prepared.
- It is the client's responsibility to ensure that any equipment ordered meets the design.



Mini Bus
Overall Length 6.330m
Overall Width 2.192m
Overall Body Height 2.601m
Min Body Ground Clearance 0.374m
Track Width 2.192m
Lock to lock time 4.00s
Kerb to Kerb Turning Radius 6.450m



Ambulance
Overall Length 5.461m
Overall Width 2.020m
Overall Body Height 2.498m
Min Body Ground Clearance 0.225m
Track Width 1.860m
Lock to lock time 4.00s
Kerb to Kerb Turning Radius 6.500m

