

KIRKLEES METROPOLITAN COUNCIL INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

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

DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS

Reference No: 2022/60/92194/W

Site Address: Land adj, 21, Thomas Street, Lindley, Huddersfield,
HD3 3JJ

Description: Outline application for erection of care home (Use
Class C2) of up to 60 beds with associated access

Recommending Officer: Richard Riggs

DECISION – Outline Planning Permission- Refused

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

David Wordsworth

AUTHORISED OFFICER

Date: 16-Mar-2023

OFFICER REPORT (DELEGATED)

Application: 2022/92194

Description: Outline application for erection of care home (Use Class C2) of up to 60 beds with associated access

Address: Land adj, 21, Thomas Street, Lindley, Huddersfield, HD3 3JJ

Ward: Lindley

Expiry Date: 27 September 2022

Extension: 17 March 2023

Case Officer: R Riggs (Senior Planning Officer)

RECOMMENDATION

Refuse

SITE AND SURROUNDINGS

The application site is located in a predominantly residential area and c. 25m west of the defined Lindley District Centre. It is formed from a roughly square parcel of land which has been previously used for a children's care home, Council offices, and most recently as a temporary portable pharmacy.

The site is bounded by Brian St to the south, Thorncliffe St to the east, and Thomas St to the north. To the west of the site is an existing Public Right of Way (HUD/365/20). The site has 3 existing vehicular entrances on the northern and southern boundaries with laybys used for off-street parking adjacent to the site on Thomas St and Thorncliffe St. The site is also serviced by an existing bus stop on Thorncliffe St.

There are a number of existing trees on-site, mostly along the western and north-western boundaries. Most of the existing trees are covered by 2 existing Tree Preservation Orders (12/12/g1 and 12/12/g2).

The site lies in a Bat Alert Area, in Flood Zone 1, in the vicinity of historic landfill sites, in a development low risk Coal Advice Area, and is identified as being potentially contaminated from its previous uses. An abandoned public sewer asset runs through the centre of the site. There are no designated heritage assets or Conservation Areas in close proximity of the site which would be adversely affected.

The application site red line boundary measures approximately 0.27 hectares.

THE PROPOSAL

The applicant is seeking outline planning permission for the '*erection of care home (Use Class C2) of up to 60 beds with associated access*'. All matters are reserved except for access.

The indicative plans show a 2-2.5 storey roughly 'C'-shaped building of c. 2,978 sqm Gross Internal Area occupying the northern, southern, and central areas of the site. A 21-space car parking area, cycle parking and bin store would occupy the western portion of the site, and an area of outdoor amenity green space would be located to the east. Vehicular access would be taken from Brian St to the south with a servicing access taken from Thomas St to the north, via an existing layby.

Supporting Information

In addition to the submitted plans, the following documents have been submitted in support of this application:

- Application Form
- Design and Access Statement
- Cover Letter
- Arboricultural Impact Assessment
- Flood Risk Assessment & Drainage Management Strategy
- Care Home Need Assessment
- Preliminary Ecological Appraisal
- Transport Assessment
- Travel Plan
- Phase I Ground Investigation Report
- Phase II Ground Investigation Report
- Planning Statement
- Level 1 Utility Study

RELEVANT PLANNING HISTORY

	<i>Application:</i> 2020/90149
	<i>Description:</i> Variation of condition 1 (expiration period) on previous permission 2019/90588 for erection of portable building for use as temporary pharmacy
	<i>Decision:</i> Approved 06/03/2020
	<i>Application:</i> 2019/90588
	<i>Description:</i> Erection of portable building for use as temporary pharmacy
	<i>Decision:</i> Approved 09/05/2019
	<i>Application:</i> 2013/92811
	<i>Description:</i> Prior notification for demolition of redundant council offices
	<i>Decision:</i> Approved 02/10/2013
	<i>Application:</i> 2012/90951
	<i>Description:</i> Outline application for erection of 12 semi-detached dwellings
	<i>Decision:</i> Approved 16/07/2012

Application: 2002/91493

Description: Change of use from Children's Home to office accommodation with parking

Decision: Approved 04/07/2022

HISTORY OF NEGOTIATIONS

Officers negotiated with the applicant to:

- Consider the impact of the proposal on landscape character impacts and TPO trees at the west and north of the site and address indicative layout concerns relating to the cycle and bin stores.
- Assess highways safety, site access arrangements, and impacts of existing on-street car parking around the site.

PLANNING LEGISLATION AND POLICY

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Kirklees Local Plan. The Kirklees Local Plan was adopted on 27 February 2019 and comprises the strategy and policies document, allocations and designations document and associated proposals map.

The following legislation, policies, and guidance are considered relevant to the determination of this application:

Kirklees Local Plan (February 2019)

The site is unallocated in the Kirklees Local Plan.

- Policy LP1 – Presumption in favour of sustainable development
- Policy LP2 – Place Shaping
- Policy LP3 – Location of new development
- Policy LP7 – Efficient and effective use of land and buildings
- Policy LP9 – Supporting skilled and flexible communities and workforce
- Policy LP11 – Housing Mix and Affordable Housing
- Policy LP20 – Sustainable travel
- Policy LP21 – Highways and access
- Policy LP22 – Parking
- Policy LP23 – Core walking and cycling network
- Policy LP24 – Design
- Policy LP27 – Flood risk
- Policy LP28 – Drainage
- Policy LP30 – Biodiversity & Geodiversity
- Policy LP32 – Landscape
- Policy LP33 – Trees
- Policy LP52 – Protection and improvements of environmental quality
- Policy LP53 – Contaminated and unstable land

- Policy LP63 – New open space

Supplementary Planning Documents & Guidance

- Adult Social Care Market Position Statement (November 2022)
- Biodiversity Net Gain Technical Advice Note (June 2021)
- Planning Applications Climate Change Guidance (June 2021)
- Highway Design Guide SPD (November 2019)
- Joint Strategy for Residential and Nursing Care Homes for Older People (2016)

National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published in 2012 and updated most latterly in July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for Local Planning Authorities and is a material consideration in determining planning applications.

National Planning Policy Framework (NPPF) (July 2019)

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

Other Material Considerations

Since the revocation of the Care Standards Act 2000 and its replacement with the Health and Social Care Act 2008, there is no direct legislation specifically governing the development of C2 care homes (e.g., minimum space standards). However, a range of guidance and industry best-practice principles are available for consideration. These are:

- National Planning Policy Guidance (NPPG) Housing for older and disabled people (June 2019)
- Housing for Older and Disabled People National Planning Practice Guidance (2019)
- The Housing our Ageing Population Panel for Innovation (HAPPI) Report (2009)

Climate Change

The Council approved Climate Emergency measures at its meeting of full Council on the 16th of January 2019, and the West Yorkshire Combined

Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.

On the 12th of November 2019 the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target; however, it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the council would use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

REPRESENTATIONS (PUBLIC)

This application has been advertised as a major development.

Publication of the application has been undertaken in accordance with the Council's Development Management Charter (July 2015) and in line with the Council's adopted Statement of Community Involvement (December 2019).

The statutory public consultation period took place between 12/08/2022 to 03/09/2022.

A secondary public consultation took place via neighbour letter between 10/11/2022 to 15/12/2022 following an administrative error.

During the public consultations, a total of 5 representations were made. Of these, none were made in support, 4 were received as objections, and 1 as general comment.

The key points raised in OBJECTION are as follows:

- Boundary trees may be at risk from development
- Building would be too large for the site
- There wouldn't be enough outside space for residents
- Proposal would not reflect local vernacular
- Proposal could impact highways safety of 1-way street (Thorncliffe St)
- Traffic is already an issue in the area
- Proposal underprovides on car parking
- Land would be better used as a car park for the local area
- Several rooms would overlook neighbouring properties
- Young families should be prioritised in the area
- Ownership of the site is in question
- Local services have not kept up with the pace of development

The key points raised as COMMENT are as follows:

- Car parking is already an issue in the area
- Petition for site to be used as a car park

Local Members:

Cllr Cahal Burke (Lindley) – No comments received.

Cllr Adam Gregg (Lindley) – No comments received.

Cllr Anthony Smith (Lindley) – No comments received.

CONSULTATION RESPONSES

Invitations to comment on this application were sent to the following consultees:

Kirklees Council:

KC Accessible Homes – No comments received.

KC Adult Services – No comments received.

KC Building Control – Advice received.

KC Crime Prevention – No objections subject to conditions.

KC Conservation & Design – Has no comments to make.

KC Ecology – No objections subject to conditions.

KC Environmental Health – No objections subject to conditions.

KC Highways Development Management – Objects to the proposal.

KC Highways Structures – No comments received.

KC Landscape – Further information and conditions required.

KC Lead Local Flood Authority – No objections subject to conditions.

KC Policy – No comments received.

KC Social Services – No comments received.

KC Strategic Housing – Advice received.

KC Strategic Waste – Advice received.

KC Trees – No objections subject to conditions.

External Consultees:

West Yorkshire Ecology – No comments received.

West Yorkshire Fire Authority – No comments received.

Yorkshire Water – No objections subject to conditions.

MAIN ISSUES

Taking into consideration the site allocations and constraints, the main issues for consideration as part of the appraisal of the application are:

- Principle of Development
- Design & Landscape
- Access, Highways Safety & Car Parking
- Flood Risk & Drainage
- Ecology, Biodiversity & Trees
- Amenity
- Other Material Considerations

OFFICER ASSESSMENT

Principle of Development

Spatial Strategy

Policy LP1 sets out the Local Planning Authority's approach to the presumption in favour of sustainable development, as laid out in NPPF (Chapter 2), particularly Paragraph 11(c). Policy LP1 states that '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'.

Policy LP2 requires that 'proposals should seek 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'. The policy's supporting text identifies the Huddersfield sub-area, particularly Lindley, as having a District Centre which meets a range of everyday shopping and service needs, but that the some of the area has a weak housing market which may be a barrier to the development of brownfield sites.

To achieve sustainable growth, a housing need of c. 6,000 new residential dwellings has been identified within Policy LP2 for the Huddersfield area, through a combination of housing and mixed-use site allocations, over the lifetime of the adopted Kirklees Local Plan. As this site is unallocated, it

represents a windfall site which would provide over and above that need which has been identified within the Kirklees Local Plan.

Policy LP3 concerns the location of new development. In considering the abovementioned requirements of Policies LP1 and LP2, proposals are also required to reflect a settlement's size and function, place shaping strengths and opportunities/challenges for growth, spatial priorities for urban renaissance and regeneration, and the need to provide new homes and jobs.

The site lies c. 25m west of the defined Lindley District Centre which has previously had planning permission for a children's home, offices, and residential dwellings. NPPF (Chapter 11) Paragraph 123 requires that Local Planning Authorities should take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs.

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.

Care Needs Assessment

The Kirklees Adult Social Care Market Position Statement (November 2022) states that there are 49 specialist elderly facilities within the Huddersfield area (37% of borough-wide provision) providing 1,246 care beds (35% of borough-wide provision). Demand forecasting suggests that until at least 2025/26, there will be an oversupply of care home beds in Kirklees due to under-occupancy resulting, in part, from the Covid-19 pandemic. The Statement concludes that future demand for care home beds will likely be from those in need of specialist support; further noting that estimates suggest that up to 90% of people in care homes have dementia. It is therefore noted that specialist dementia-friendly care facilities would be preferential over standard residential care homes based on the current and projected care needs.

The applicant has submitted a Care Home Need Assessment in support of this application. This details that there is a demonstrable future need for additional C2 care home beds in the borough, as there is a statistical demand for 602 care beds by 2025 (with current supply being 564 beds). The report also forecasts an undersupply of 324 care beds by 2025. Section 5.2 of the Assessment recognises the need for specialist dementia care, and Section 5.12 of the submitted Planning Statement further highlights the requirements for additional specialist dementia care.

Policy LP11 requires proposals of 10 or more dwellings to provide a mix of housing reflecting the proportions of households that require housing, achieving a mix of house size and tenure. This includes provision of dwellings suitable for adaptation and/or use from those with specialist needs.

Officers note that the proposal has not defined the exact types of care provision which would be offered by the care home but do note the reference to provision of *full-time on-site nursing care [...] in line with the Care Quality Commission standards* at Paragraph 3.4 of the submitted Planning Statement. Officers also note that this is an outline application for the principle of development and not the specific details of future operations, which would depend on a number of as yet unknown factors, including the end operator.

Nevertheless, it is important to highlight the future care need requirements of older people in the borough in determining this application. In doing, it is considered necessary to secure a condition for the proposed care home, under Reserved Matters, to be designed using the joint Kirklees Council and Dementia Services Development Centre's [Dementia Friendly Design Tool](#) (2021) and Housing our Ageing Population Panel for Innovation (HAPPI) guidance to secure a development which is capable of providing the levels and types of care which will most likely be required by future residents, in line with the demonstrable need.

Development Density

Policy LP7 states that developments should achieve a net density of at least 35 dwellings per hectare, where appropriate. It also identifies that proposals should encourage the use of previously developed land in sustainable locations and give priority to despoiled, degraded, derelict and contaminated land that is not of high environmental value.

NPPF (Chapter 11) Paragraph 119 states that proposals 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. Additionally, Paragraph 124 requires that LPAs should support development that makes efficient use of land. This includes consideration of the desirability of maintaining an area's prevailing character and setting and the importance of securing well-designed, attractive and healthy places.

This application is for an up-to 60-bed C2 care home of a site of c. 0.27ha. As the proposal does not include definable C3 residential dwellings, Officers consider that calculating the appropriate density of C2 bed spaces for the site should be based on the need identified in the previous section of this report, together with the proposal's landscape character impacts, as assessed later in this report. Officers also note the proposal would use land previously developed for a similar use (children's home) which ended operations c. 20 years ago.

In assessing this, Officers consider that an up-to 60-bed C2 care home would likely not be of a development density which would be significantly detrimental to the site. This conclusion has been drawn from the identified care need in the local area, the site's previous [similar] uses, and the indicative layout plan showing areas of amenity green space and on-site ancillary development (such as car parking) being facilitated.

As such, Officers consider that the proposal is in accordance with Policy LP7 of the adopted Kirklees Local Plan. It is further noted that at Reserved Matters stage, options for less dense C2 uses could be proposed which would, by definition, also likely be considered appropriate for the site.

Access, Highways Safety & Car Parking

Public Rights of Way

Policy LP23 states that proposals that may prejudice the function, continuity or implementation of the core walking and cycling network will not be permitted. Furthermore, the policy requires that existing public rights of way that form part of the core walking and cycling network or elsewhere will be protected and enhanced. Proposals shall seek to integrate into existing and proposed cycling and walking routes as identified in the core walking and cycling network by providing connecting links where appropriate.

The site is located immediately to the east of Public Right of Way HUD/365/20, which runs north to south between Thomas St and Brian St. There are no proposed works or interventions within this application which would prejudice the continuing free function of the PRow. The site would be accessed by pedestrians in close proximity to the existing PRow via the main access off Brian St. As such, Officers consider that the proposal is in accordance with Policy LP23 of the adopted Kirklees Local Plan.

Location Sustainability

Policy LP20 requires that proposals are located in accordance with the Council's spatial strategy to ensure the need to travel is reduced and that essential travel needs can be met by forms of sustainable transport other than the private car. Furthermore, proposals should be designed to encourage sustainable modes of travel and demonstrate how links have been utilised to encourage connectivity.

The site lies adjacent to a bus stop on Thorncliffe St which sees regular services to the local area and further afield, including Lindley, Dalton, Meltham, Almondbury, and Halifax. The site is also located within a heavily residential area and just outside of the defined Lindley District Centre, and is adjacent to an existing Public Right of Way network.

The applicant has submitted a Travel Plan in support of this application. This sets out the applicant's objectives and targets to increase modal shift for future staff away from single private car use to other means of public and

sustainable transport. Section 3.3 of the TP sets 5-year targets for the reduction of singly occupied car trips by staff by -10% and to increase the overall proportion of sustainable and active travel use by +10%.

Officers consider that the proposal is located in a sustainable location and that the submitted Travel Plan would need to be secured by condition to promote modal shift for future staff to and from the site. In light of this, the proposal is considered to be in accordance with Policy LP20 of the adopted Kirklees Local Plan.

Access, Servicing & Highways Safety

Policy LP21 requires proposals to demonstrate sustainable modes of transport and be accessed effectively and safely by all users. 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. Proposals are required to demonstrate adequate information and mitigation measures to avoid a detrimental impact on highway safety and the local highway network.

NPPF (Chapter 9) Paragraph 111 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. Paragraph 112 further details priority use of new roads, addressing the needs of people with disabilities, creating safe and secure places, allowing for efficient delivery of good and emergency service access, and enabling the use of electric vehicles.

The applicant has submitted a Transport Assessment in support of this application. This details that the site currently has 2 vehicular accesses onto Brian St and 1 onto Thomas St. Two of these would be permanently closed and reinstated as footways, leaving just the proposed Brian St all-purpose site access operational. This would be widened to incorporate adequate standard junction geometry for the proposal, along with appropriate visibility splays for the 30mph speed limit (2.4m x 43m). The assessment also recognises the unrestricted on-street car parking on roads adjacent to the site. TRICS data in the TA shows that the proposal would likely generate up to 1 vehicle movement every 6 minutes at peak hours, with up to 143 vehicle movements throughout the day (07:00 – 21:00).

Site Access

KC Highways Development Management have reviewed the submitted information and raised initial concerns regarding the impact of the existing levels of on-street parking on the provision of suitable visibility at the Brian St site entrance. Waiting restrictions are considered to be an acceptable solution to providing a clear site entrance and visibility splays from parked cars. However, no revisions to the scheme have been proposed by the applicant; indicating that the proposed access arrangements would be no worse than they were previously.

The applicant has also cited Section 10.7.1 of Manual for Streets 2 which states:

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.

Some anecdotal evidence has been submitted relating to low speeds in the area owing to the presence of on-street car parking, although Officers note that no speed survey has been undertaken to corroborate this as part of the TA. KC Highways Development Management note the guidance in MfS2 and the applicant's position, but consider that waiting restrictions would still be required at either side of the site access to provide the requisite visibility for its safe use.

As no amendments have been proposed for the betterment and demonstrably safe use of the proposed site access arrangements from those in operation c. 10 – 20 years ago (and which have been largely unused for any meaningful quantum of site traffic for c. 10 years following the demolition of the Council offices), KC Highways Development Management have raised an objection to this application on the grounds of it not providing an adequate and safe site access.

Emergency and Servicing/Delivery Vehicles

Key Design Driver 26 of the adopted Highway Design Guide SPD states that there is a need to accommodate the safe manoeuvring and turning requirements of larger vehicles, including those used for refuse collection, deliveries and emergencies. At the start of the design process, it is essential that an applicant determines the type of vehicles that will require regular access and those that can be assumed to require access only occasionally. This will help to inform the vehicle path tracking undertaken and design out any unnecessary reversing movements before planning submission.

Officers note that no consideration of emergency vehicles has been undertaken in the submitted information. As a C2 care home, it is considered likely that the proposal would require the use of emergency responders/doctors and ambulances more frequently than a C3 residential development might. It is considered that without consideration of waiting restrictions at the site entrance, the proposal could lead to conflict between cars parked on Brian St and the ability of emergency vehicles to safely access and exit the site. It is further noted that the no swept path analysis has been submitted to confirm that an ambulance, or other emergency vehicle, could enter the site, turn, and leave the site in forward gear if all the car parking spaces were to be occupied. Although it is recognised that car park layout would predominantly be a matter of for consideration under Reserved Matters,

Officers consider that as a matter of functional importance to the proposed site access, it is right to duly consider it at outline stage.

The proposal would locate the site's servicing arrangements at its north western corner. This would be formed of a pathway into the site which would be accessed via the existing layby on Thomas Street, over a full height kerb. There would be no guarantee that service/delivery vehicles/workers would be able to safely access the service area due to the prevalence of cars parked the layby. Officers also note that no waiting restrictions or other potential interventions are proposed to mitigate the likely conflict between parked cars and the servicing/delivery access. This would likely lead to servicing/delivery vehicles parking within Thomas St, blocking the free flow of traffic along the highway. KC Highways Development Management have raised an objection to the proposal in light of this.

The applicant has suggested that, based on the submitted TRICS data predicting 1 service delivery every 2 days, *"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"* and that this would be no worse than service delivery arrangements from the site's previous uses c. 10-20 years ago. This is noted; however, it is considered that unlike bin collections (which are assessed in the following section), regular deliveries of goods and the unloading of servicing/delivery vehicles would likely take a much longer amount of time depending on the nature and quantum of the goods being delivered (e.g., kitchen and domestic supplies, medical equipment, specialist furniture, etc.) and the means of transporting them into the proposed development (e.g., carried by hand, loading up caddies, etc.). This would likely have the effect of blocking the free flow of traffic on Thomas St, or any other surrounding street being used by a servicing/delivery vehicle were they not able to use a site adjacent layby.

Furthermore, Officers consider the applicant's proposed solution of using on-street parking around the site for servicing/delivery vehicles cannot be guaranteed owing to the transient and unallocated nature of on-street parking. Similar to the consideration of emergency vehicle access, no swept path analysis has been submitted showing that servicing/delivery vehicles would be able to safely enter, turn, and exit the site in forward gear. As such, Officers consider that a safe and functional access for servicing/delivery vehicles has not been adequately demonstrated as part of this application.

Given the above assessment of access and servicing arrangements, and the statutory consultee objection from KC Highways Development Management, Officers consider that the proposal is in conflict with Policy LP21 of the adopted Kirklees Local Plan (particularly parts (a), (e) and (f)), Highway Design Guide SPD, and NPPF (Chapter 9), particularly Paragraph 111.

Refuse and Waste Collection and Removal

Further to the requirements of Policy LP21, Policy LP24(d)(vi) also requires that proposals incorporate adequate facilities to allow occupiers to separate and store waste for recycling and recovery that are well designed and visually unobtrusive and allows for the convenient collection of waste.

The bin store would be indicatively located at the north west of the site, adjacent to the cycle storage. Concerns were initially raised by KC Highways Development Management about the proposed collection/kerbside presentation route, via the proposed servicing area and over a full height kerb. The applicant has identified that the location of the bin store and the collection route could be moved to their historic placement further to the centre of the northern site boundary. The collection route would then facilitate the use of an existing dropped kerb at the eastern end of the existing layby on Thomas St.

Officers consider that this route is highly likely to have been previously used for refuse collection based on available historic street view imagery, but also note that the dropped kerb is cambered into the existing layby and not directly onto Thomas St, which could lead to conflict between parked cars and waste collection operatives/commercial bins if the layby were full or the dropped kerb blocked.

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 St, but Officers consider that this would be momentary and would not cause an unacceptable impact on highway safety.

Officers acknowledge the applicant's Counsel opinion regarding the abovementioned matters which was received by the Local Planning Authority on 03/03/2022. This has been duly considered by Officers as part of the decision-making process, in liaison with KC Highways Development Management and KC Legal.

Car and Cycle Parking

Policy LP22 requires that proposals provide full details of the design and levels of proposed parking provision following the principles set out in the policy wording. In doing so, they should demonstrate how the design and amount of parking proposed is the most efficient use of land within the development as part of encouraging sustainable travel.

The applicant is proposing 21 car parking spaces on this site. The submitted TA identifies the quantum of proposed car parking to be 1 space less than the maximum required based on a ratio of 16 staff (per shift) requiring 10 spaces, with 12 spaces required for visitors (based on 1 space per 5 residents). Given

the nature of the proposal as a C2 care home, no spaces are proposed for future residents.

Two of the proposed car parking spaces are identified as disabled parking and 2 are noted as being for use with Electric Vehicle Charging Points with an additional 2 spaces to be enabled for future EVCP retrofitting. One motorcycle space is detailed in the TS but is not shown on the submitted plans.

Officers note that the layout of the proposed car park would need to be considered under Reserved Matters but consider that the proposed quantum of car parking to be made available is likely to be acceptable, particularly when taken in conjunction with the submitted Travel Plan and the sustainable location of the site.

Three cycle parking spaces would be provided under the proposal, to be secured in a communal external cycle store (the details of which would be considered under Reserved Matters). This would equate to 1 space per 10 car parking spaces or c. 1 space per 5 staff per shift. Given the identified intention of the Travel Plan to reduce singly occupied car trips by staff by -10%, Officers consider that the provision of c. 2 additional cycle parking spaces should be accommodated on-site. Notwithstanding this, the proposed quantum of cycle parking is not considered to be unacceptable. Conditions would be secured for the full layout and details of car and cycle parking spaces under Reserved Matters, including the details of EVCPs.

Flood Risk & Drainage

Flooding Risk

Policy LP27 requires that proposals must be supported by an appropriate site-specific Flood Risk Assessment in line with national planning policy. The national policy requirements are set out in NPPF (Chapter 14). This details the sequential approach to development and flood risk to steer new development to areas with the lowest risk of flooding from any source.

The applicant has submitted a Flood Risk Assessment & Drainage Management Strategy in support of this application. This details that the site lies in Flood Zone 1 and is considered to be at low risk from fluvial flooding. However, due to its impermeable nature, the site is considered to be at higher (but still low) risk of surface water flooding. The site is further considered to have a < 25% risk of groundwater flooding according to the Council's Strategic Flood Risk Assessment. A number of flood risk mitigation measures are identified in the submitted report. These include raising the Finished Floor Levels of the care home (as a 'more vulnerable use') a minimum of 150mm above existing ground levels, the delivery of a SuDS hierarchy-based surface water drainage strategy, and the adoption of an appropriate ongoing drainage management and maintenance plan.

Yorkshire Water has reviewed the submitted information and raise no objections, subject to the securing of conditions for development in

accordance with the submitted Flood Risk Assessment & Drainage Management Strategy. Officers note this requirement for a compliance-type condition to implement the flood risk mitigation measures and would secure the necessary conditions. As such, the proposal is considered to be in accordance with Policy LP27 of the adopted Kirklees Local Plan.

Surface & Foul Water Drainage

Policy LP28 contains a presumption for the use of sustainable drainage systems (SuDS). In addition to this presumption, the policy also states that 'development will only be permitted if it can be demonstrated that the water supply and waste water infrastructure required is available or can be co-ordinated to meet the demand generated by the new development'.

NPPF (Chapter 14) Paragraph 169 requires major developments to incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate, in line with the sustainable drainage hierarchy.

Surface Water

The submitted Flood Risk Assessment & Drainage Management Strategy identifies that the site is not capable of surface water drainage via infiltration due to its impermeable sub soil make up. As such, Yorkshire Water are satisfied that drainage via a public combined sewer in Thorncliffe St at a discharge rate of 5 litres per second would be appropriate in this instance, as there are no suitable watercourses to discharge into in the vicinity of the site.

KC Lead Local Flood Authority have reviewed the submitted drainage strategy and accept the principle of discharge into a public combined sewer, subject to the prior removal of the existing settled deposits within the sewer, as identified in the submitted information. Furthermore, KC LLFA require amendments to the proposed flow control device to secure a more reliable drainage train. It is noted that this should be a vortex-type device (e.g., HydroBrake) rather than an orifice plate. In light of this, KC LLFA recommend pre-commencement conditions to secure a full surface water drainage strategy, overland flow routing, a construction phase surface water flood risk and pollution prevention plan, and a pollution prevention scheme for fats, oils and grease from the proposed commercial kitchen.

Yorkshire Water also note the presence of an abandoned sewer asset running into the site which can be capped off at the site boundary and grubbed out if necessary, under Part H4 of the Building Regulations 2010 (as amended).

Officers note the consultee support for the principle of the proposed surface water drainage strategy and recommendations for pre-commencement conditions for further specific details, which would be secured.

Foul Water

Foul water drainage from the care home is proposed to be via an existing public combined sewer at Thorncliffe St, with the approximated peak flow expected to be 2.8 litres per second. Paragraph 6.5 of the submitted Flood Risk Assessment & Drainage Management Strategy notes that further detailed design would be required to confirm whether a full gravity connection can be achieved. This would be secured by pre-commencement conditions.

Given the above assessment of the proposed surface and foul water drainage strategies, the proposal is considered to be in accordance with Policy LP28 of the adopted Kirklees Local Plan and NPPF (Chapter 14).

Ecology, Biodiversity & Trees

Ecology & Biodiversity

Policy LP30 requires that proposals do not result in unmitigated or uncompensated significant loss of or harm to biodiversity and should provide biodiversity net gains through good design.

The Council's adopted Biodiversity Net Gain Technical Advice Note Paragraph 3.1.1 states that *'at this time, in the absence of legislation, a minimum of 10% net gain in biodiversity is required'*.

NPPF (Chapter 15) Paragraph 174(d) further requires that proposals should minimise impacts on and provide net gains for biodiversity. In addition, Paragraph 180(a) also states that if a proposal would result in unmitigated or uncompensated significant harm to biodiversity, planning permission should be refused.

The applicant has submitted a Preliminary Ecological Appraisal in support of this application. This details that there is evidence to conclude that common pipistrelle bats are present around the site, and that other bat species may also use the area for roosting and foraging. However, the bat roost potential of the site is considered to be negligible. The Appraisal also states that an invasive non-native species of Cotoneaster has been found on-site which will need to be disposed of according to the current regulations. A series of ecological enhancements, including Biodiversity Net Gain, are laid out in the Appraisal. These include consideration of external lighting, provision of bird and bat boxes, and native species planting.

KC Ecology have reviewed the submitted information and raise no objections to the findings and proposed enhancements of the PEA. Conditions are proposed to secure an Ecological Design Strategy (EDS) to be submitted at Reserved Matters stage, which should be inclusive of a demonstrable 10% Biodiversity Net Gain as set out in the Council's Biodiversity Net Gain Technical Advice Note. A condition limiting on-site works to outside of the bird nesting season would also be secured. Given this, the proposal is considered to be in accordance with Policy LP30 of the adopted Kirklees Local Plan and NPPF (Chapter 15).

Tree Preservation Orders

Policy LP33 states that planning permission will not be granted for developments which directly or indirectly threaten trees or woodland of significant amenity. Furthermore, 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.

The site hosts a number of trees which are protected by Tree Preservation Orders along its western and northern boundaries. The applicant has submitted an Arboricultural Impact Assessment and Arboricultural Method Statement in support of this application. This details that the removal of 9 trees would be required to facilitate the construction of the proposal; 5 of which are covered by the existing TPOs.

KC Landscape and KC Trees have reviewed the submitted information. They note that the proposal would represent an intensification of the site's current use, which would put pressure on the existing trees. As such, KC consultees require further information to be secured by conditions and for submission at Reserved Matters stage. This includes details of replacement trees for those which would be lost under the proposal and a definitive Arboricultural Method Statement to include consideration of drainage runs from hardstanding areas (such as the car park) within Root Protection Zones.

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.

Design & Landscape

Design & Layout

Policy LP24 states that good design should be at the core of all proposals in the district and should be considered at the outset of the development process. Furthermore, proposals should promote good design by ensuring that the form, scale, layout and details of the development respect and enhance the character of the area, provide high levels of sustainability, and minimise the risk of crime, amongst other criteria.

NPPF (Chapter 12) sets out the national approach to achieving well-designed places. Paragraph 130 states that proposals should function well and add to the overall quality of the area for the lifetime of the development, be visually attractive as a result of good architecture, be sympathetic to local character and history, establish or maintain a strong sense of place, optimise the site's potential to accommodate and sustain an appropriate amount and mix of development, and create places that are safe, inclusive and accessible.

As matters of layout, scale, landscaping, and appearance are reserved under this outline application, the design of the proposed care home and the wider site is not for due consideration at this time. Notwithstanding this, Officers consider that a 2 to 2.5 storey building would likely not be out-of-keeping with the residential vernacular of the wider area and the site's previous built form. Officers further note that as a use commonly found in residential areas, the proposed C2 care home would likely be capable of being integrated into the local vernacular at Reserved Matters stage through its design, use of external materials, and landscaping. The design of the proposal would also need to be legible and meet the needs of everyone, regardless of visual, physical and cognitive ability – this includes people with dementia who would likely be cared for at the home.

Conditions would need to be secured for the design, scale, layout and landscaping elements of the proposal to ensure that they would be appropriate for the site, development type, and wider context to be in accordance with Policy LP24.

Landscape Character

Policy LP32 requires that proposals should be designed to take into account and seek to enhance the landscape character of the area, with particular consideration of the setting of settlements and buildings within the landscape, as well as other environmental features in the vicinity.

NPPF (Chapter 12) Paragraph 130 requires proposals function well and add to the overall quality of the area, are visually attractive, are sympathetic to local character and history (including the surrounding built environment and landscape setting), establish or maintain a strong sense of place, optimise the site's potential for sustainable development, and create safe, inclusive and accessible places.

KC Landscape have reviewed the submitted information and note that based on the indicative site plan, the proposal would more closely mirror the footprint of the original later 19th Century dwellings than recent developments on this site, particularly along Brian St and Thomas St. Given this, and the assessment undertaken in the previous section, Officers consider it likely that the proposal would be in accordance with Policy LP32, but note that further consideration of the detailed proposed at Reserved Matters stage.

Amenity

Residential Amenity & Separation Distances

Policy LP24(b) requires that proposals provide a high standard of amenity for future and neighbouring occupiers; including maintaining appropriate distances between buildings and the creation of development-free buffer zones between housing and employment uses incorporating means of screening where necessary. Furthermore, Principle 6 of the adopted

Housebuilders Design Guide SPD sets out the typical minimum separation between new and existing dwellings.

As matters of layout are reserved under this outline application, the exact footprint and location within the site of the proposal is shown as indicative only on the submitted plans. Given the site constraints and end use of an up to 60-bed care home, Officers do not consider that the indicative plans would be able to be significantly altered under Reserved Matters. As previously noted, the indicative layout of the northern and southern boundaries would be more akin the site's historic residential building lines, and a 2-2.5 storey building is likely to be in-keeping with the wider area's residential vernacular. Officers also note that the indicative second floor layout would remove bedrooms from the northern boundary to reduce any detrimental impacts from overlooking. As such, Officers consider that the proposal would likely be acceptable in residential amenity terms in relation to overbearing, overlooking, overshadowing, and loss of outlook, subject to a full assessment at Reserved Matters stage.

The applicant has submitted indicative floor plans to demonstrate that future occupiers would likely have an acceptable level of amenity provision within the proposed care home. The proposed bedrooms would be between c. 14.5 sqm to c. 15.9 sqm (including ensuite wet rooms) and are considered to be of an acceptable size based on industry standards. The care home would also provide other on-site amenities such as shared and private lounges/dining areas, cinema, library, and dedicated activities spaces. Ground floor bedrooms at the east of the site would have direct access to the amenity green space, and balconies/Juliette balconies are proposed in the communal areas on the first and second floors. Plant rooms and kitchens would indicatively be kept to the west of the building away from bedrooms and other shared spaces. Officers note that the proposed layout may be subject to change at Reserved Matters stage but consider that the indicative care home layout would likely be acceptable in residential amenity terms under Policy LP24. Conditions would be secured to secure an appropriate layout at Reserved Matters.

Noise, Odour & External Lighting

Policy LP52 requires that proposals which have the potential to increase noise, vibration, light, dust, odour, shadow flicker, chemical or other forms of pollution must be accompanied by evidence to show that the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, so as to ensure it does not reduce the quality of life and well-being of people to an unacceptable level or have unacceptable impacts on the environment.

Care home developments are commonly found in residential areas and are not generally considered to be a noise generating uses, over and above the noise made by people living and working in them and the use of medical equipment and internal alarms. Noise levels would also need to be kept at an operationally safe level to maintain the residential amenity of future occupiers

and staff. KC Environmental Health have raised no objections in respect of noise, other than during the construction phase, as assessed later in this report. It has also previously been noted that noise generating equipment, such as kitchens and plant rooms, are to be kept separate from residential bedrooms. Notwithstanding this, details of plant would be secured by conditions to ensure that there would be no significant detriment to future occupiers from their operation.

The proposal would contain large kitchen and dining areas which are likely to generate noise and odour. KC Environmental Health recommend conditions for a kitchen extraction scheme, including an odour risk assessment and noise mitigation measures, to prevent detrimental impacts resulting from odour and noise impacting on future residents and neighbouring occupiers. Officers would secure the relevant conditions.

No details for an external lighting scheme have been submitted at this stage. It is therefore unclear what types and luminosities of external lighting would be used at the site. However, KC Environmental Health and Officers note that conditions would be secured for a full external lighting strategy under Reserved Matters to ensure that external lighting does not have a detrimental impact on the residential amenity of neighbouring occupiers or local wildlife.

Other Material Considerations

Ground Contamination and Stability

Policy LP53 requires that development on land that is unstable, currently contaminated or suspected of being contaminated due to its previous history or geology will require the submission of an appropriate contamination assessment and/or land instability risk assessment. Furthermore, any development which cannot incorporate suitable and sustainable mitigation measures (if required) which protect the well-being of residents or protect the environment will not be permitted.

NPPF (Chapter 15) Paragraph 183 requires that proposals ensure that the site is suitable for its intended purpose taking into account the ground conditions and any risks arising from land instability and contamination, and that any contaminated land is remediated with works overseen by a competent person.

Contaminated Land

The applicant has submitted a Phase 1 and Phase 2 Ground Investigation Reports. These conclude that *the site is considered to represent a low to moderate/low risk to human health* as a number of potential sources of contamination were identified from made ground from the site's previous uses (including the potential for asbestos) and associated soil gasses, with off-site sources of ground gas also being identified. The Phase 2 report undertook some trail pitting and ground gas testing over a period of c. 6 weeks. Based on the results, the report recommends that no further monitoring or

remediation is required, although use clean imported topsoil would need to be used in the proposed areas of soft landscaping.

KC Environmental Health have reviewed the submitted information and do not accept the methodology and findings of the Phase 2 Report, as a number of areas of concern have not been satisfactorily considered. Notwithstanding this, KC EH accept the information submitted in the Phase 1 Report and recommend pre-commencement conditions for further Phase 2 testing, remediation, and verification to take place. Officers note this position and agree with the proposed approach and would secure the relevant conditions.

Coal Mining

The site lies in a Coal Advice Area, which is considered to pose a low risk to developments from potential previous mine workings in the area. The submitted Phase 1 Ground Investigation Report includes a Coal Mining Report obtained from The Coal Authority. This details that the site *is not within a surface area that could be affected by any past recorded underground coal mining* or within proximity to a mine entrance or adit.

Historic Landfill Sites

The site lies within 200m of an historic landfill site to the north of the site (Birchencliffe Tip). KC Strategic Waste have confirmed that during shallow spike surveys undertaken in 1994, no Methane (CH₄) and only ambient levels of Carbon Dioxide (CO₂) were detected.

Given the above considerations, the proposal is considered to be in accordance with Policy LP53 of the adopted Kirklees Local Plan.

Employment Opportunities

Policy LP9 states that where possible, proposals for new development will be strongly encouraged to contribute to the creation of local employment opportunities within the district with the aim of increasing wage levels and to support growth in the overall proportion of the districts' residents in education or training.

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. Section 4.1.2 of the submitted Transport Assessment details that 48 full time equivalent jobs are expected to be created as a result of the proposal, to be split over 3 shifts to provide 24-hour cover. This would result in a maximum of 16 staff on-site for the majority of the day, except shift changeover times.

Officers note, however, that no details have been submitted regarding the type or breakdown of jobs which would be provided. It is understood that further consideration would need to be given to job creation matters at Reserved Matters stage once the end user and full operational capacity of the

proposal is known. As such, for the purposes of this outline planning application, the proposal is likely to be considered to be in broad accordance with Policy LP9 in terms of job creation, but further assessment would be required to assess the proposal against the full policy requirements.

Construction Matters

As with any new development project, there would likely be some disturbance to residential amenity during the construction phase of the proposal. Officers note, however, that this in itself is not a material consideration in planning terms that would weigh against a grant of planning permission.

Due to the proximity of the site to neighbouring residential dwellings, KC Environmental Health propose the imposition of a pre-commencement condition for a Construction Environmental Management Plan (CEMP) to minimise and mitigate any adverse effects from the construction phase of development on the residential amenities of neighbouring occupiers. Officers agree with this approach and would secure the relevant conditions.

PLANNING BALANCE AND CONCLUSION

This is an outline application for an up-to 60-bed C2-use care home with all matters reserved except for access. The proposal has been assessed against the relevant Development Plan and national planning policies and a range of other material considerations, as details throughout this report.

The principle of development is considered to be acceptable, as well as a number of technical considerations highlighted above – subject to the imposition of conditions and further assessment of the full details at Reserved Matters stage. These policy and material considerations have been duly assessed against the scheme as a whole with weight being attributed to each accordingly, based on the up-to-date nature of the Development Plan and other considerations such as the need for C2-use care home developments within the borough.

The proposal is considered to be in conflict with Policy LP21 of the adopted Kirklees Local Plan and NPPF (Chapter 9) Paragraph 111, as it has not demonstrated that an acceptable and safe site access can be accommodated as part of this application. KC Highways Development Management (as the Local Highway Authority) have objected to the proposal on this basis. As this is an outline planning application with all matters reserved except for access, matters of highway safety and site access are a central tenet for consideration. Officers acknowledge the proposal's broad compliance with other Development Plan and national planning policies, and other material considerations, but further consider that without an acceptable and safe site access being provided as part of this application, the safe use of the proposal on this site in the future would be unduly compromised.

This application has been assessed against relevant policies in the Development Plan and other material considerations. It is considered that the

development proposals do not accord with the Development Plan as a whole, specifically in relation to highways safety and access considerations. The adverse impacts of granting permission are considered to outweigh any benefits of the development when assessed against policies in the NPPF and other material considerations.

RECOMMENDATION

Given the assessment of this application and due consideration of the relevant Development Plan and national planning policies and other material considerations of the proposal in the planning balance, **refusal** of this application is recommended on the following grounds.

REASONS FOR REFUSAL

1. The Council adopted the Kirklees Local Plan on 27 February 2019 for all planning purposes. The following policy statements are considered relevant to the proposed development:

Kirklees Local Plan (February 2019)

Policy LP21 – Highways and access

National Planning Policy Framework (July 2021)

Chapter 9 – Promoting sustainable transport
Paragraph 111

Highway Design Guide SPD (November 2019)

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 adopted 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 at the north of the site are inadequate given the requirement to cross an existing layby and 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 (as the Local Highway Authority) 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 Supplementary Planning Document, and National Planning

Policy Framework (Chapter 9) Paragraph 111. 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 the applicant has been unwilling to amend the application in light of the technical consultee advice received for works which are necessary to make the proposed development acceptable in planning terms.

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

This decision refers only to that required under the Town and Country Planning Acts and does not include any consent or approval under any other enactment, bylaw, order or regulation.

NOTE: Whilst the Local Planning Authority has been unable to work positively and proactively with the applicant to secure approval of the proposed development, the decision notice sets out clearly the reasons for the refusal and why an approval has not been possible for this particular scheme.

Report Dated: 15 March 2023