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:	**2023/62/90710/W**
Site Address:	Thornton And Ross Ltd, Manchester Road, Linthwaite, Huddersfield, HD7 5QH
Description:	Installation of plant to process waste material from trade processes before disposal into mains sewer
Recommending Officer:	William Simcock

DECISION – Conditional Full Permission

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

Teresa Harlow

AUTHORISED OFFICER

Date: 23 August 2023

Officer Report – 2023/90710
Thornton & Ross, Manchester Road, Linthwaite

Site Description

Thornton & Ross is a large industrial site consisting of a large number of interconnected buildings predominantly faced in grey profiled metal cladding. The eastern part of the site contains the staff car park, and below it at the southern end of the site, a fenced compound containing some small buildings and cabins. South of the site boundary is the River Colne, with a narrow belt of trees in the valley bottom and open agricultural land on the far bank. The site is served by a private access track off Manchester Road. Development on or near the Manchester Road frontage is of domestic scale, built mainly in stone, and comprises a mix of residential and commercial uses.

Description of Proposal

The proposal is for the installation of plant to process waste material from trade processes (manufacture of pharmaceuticals and cosmetics) before it is discharged into the main sewer. It is to be installed near the northern or lower end of the site within the fenced compound. The effluent treatment system is made up of a series of neutralisation and filtration processes. At each stage in the process, the wastewater is stored in a large tank and pumped through the system. There are to be a total of 8 pumps which would be placed within an 8m by 14m enclosure formed by 1m concrete walls. About two-thirds of this enclosure would be roofed over by a metal-clad monopitch structure of up to 5m high.

The proposal requires the loss of four parking spaces and the removal of two portable buildings from the site.

History of negotiations/amendments received

- 05-May-2023: Climate change statement submitted.
- 09-Jun-2023: Amended Phase 2 report submitted.
- 17-Jul-2023: Remediation Strategy submitted.

The above were not re-advertised since it was considered that they did not raise substantial new issues that would require the opportunity for public comment.

Relevant Planning History

Planning applications:

- 2021/92779 – Erection of plant deck consisting of new heating, ventilation and air conditioning system (HVAC) with associated works – Approved.
- 2021/94106 – Erection of fencing and security hut – Approved.
- 2019/90304 – Siting of two storey portacabins – Approved.
- 2019/90304 – Installation of additional car park lighting system – Approved.
- 2015/91178 – Erection of single storey extension to industrial building – Approved.
- 2015/90319 – Formation of new car park – Approved.
- 2008/93357 – Erection of extension to drum store and raise height of existing drum store – Approved.
- 2008/92221 – Erection of new bulk storage tank farm with road tanker off loading and sub-distribution system – Approved.
- 2002/93552 – Erection of tank and pump room for sprinkler system – Approved.
- 2000/91340 – Erection of two storey office/reception extension – Approved.
- 99/93600 – Erection of 2 storey extension – Approved
- 96/91297 – Installation of effluent treatment plant – Approved.
- 95/91879 – Alterations to form new exit, relocation of concrete building and formation of temporary hard standing for siting of contractors huts – Approved.
- 95/91089 – Erection of extensions and alterations to pharmaceutical manufacturing facility – Approved.
- 91/04305 – Erection of laboratory extension – Approved.
- 89/02113 – Outline application for extension of warehouse – Approved.

Pre application enquiry

2022/21235 – Installation of wastewater treatment plant

Officers' advice was the proposed development may prove acceptable in principle subject to:

- The proposal not causing detrimental harm to the living environment of neighbouring residential properties in terms of noise and odour.
- The proposal not increasing the flood risk on the site or elsewhere.
- The passing of a flood risk sequential test.
- The proposal not resulting in a deterioration of water courses or water bodies.

Representations

Final publicity date expires: 23-Apr-2023. Publicity was by site notice and press notice only (required since the site is within a Conservation Area). No residential properties or commercial premises in separate ownership share a

boundary with the red line application site plan so under Kirklees procedures, there was no requirement to send individual neighbour notification letters. The requirements of the Development Management Procedure were thereby complied with.

No representations made.

Consultation Responses

The following is a brief summary of Consultee advice (more details are contained in the Assessment section of the report, where appropriate):

- KC Environmental Health – Acceptable subject to conditions
- Health & Safety Executive – No objection
- Canal and River Trust – No comment
- Environment Agency – Acceptable subject to conditions
- Designing out crime officer – No objection in principle.

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 Local Plan (adopted 27th February 2019).

- The site is within land designated as Strategic Green Infrastructure Network on the Local Plan proposals map.
- It is also within the Linthwaite Conservation Area on the Kirklees Local Plan.
- It is within Environment Agency Flood Zone 2
- It is within or adjacent to land deemed potentially contaminated
- It lies within the Outer zone for Health & Safety purposes (Grosvenor Works, Lees Mills Lane, Linthwaite)

Kirklees Local Plan (LP):

- **LP 1:** Presumption in favour of sustainable development
- **LP 21:** Highways and access

- **LP 22:** Parking
- **LP 24**: Design
- **LP 27**: Flood risk
- **LP 28**: Drainage
- **LP 30:** Biodiversity and geodiversity
- **LP 31:** Strategic Green Infrastructure Network
- **LP 35:** Historic environment
- **LP 52:** Protection and improvement of environmental quality
- **LP 53:** Contaminated and unstable land.

National Policies and Guidance:
National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th 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 applications.

- Chapter 6 – Building a strong, competitive economy
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flood risk and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment.

Assessment
The following matters are considered in the assessment below –

1) Principle of development
2) Impact on visual amenity (including any heritage considerations)
3) Impact on residential amenity
4) Impact on highway safety
5) Other matters – e.g. trees/ecology (e.g. bats)
6) Representations
7) Conclusion

1 – Principle of development: Policy LP1 of the Local Plan 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 NPPF. LP1 goes on further to stating that:

“The council will always work pro-actively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.”

The site is within the Strategic Green Infrastructure Network. Development is permitted provided that it maintains the functionality and continuity of the network, and where appropriate, provides new or enhanced green infrastructure, links to the Core Walking and Cycling Network, and protects and enhances biodiversity. In this instance, being sited within an industrial complex, it would not result in the loss of any semi-natural land or habitat and it is therefore considered to have a neutral impact on the function and connectivity of the network. In this instance there is no opportunity to provide enhanced green infrastructure or links to the Core Walking and Cycling Network. Any implications for biodiversity will be considered later in the report.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that Local Planning Authorities shall pay special attention to the desirability of preserving or enhancing the appearance of buildings or land within a Conservation Area. Under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Local Planning Authorities must, where a development proposal would affect a Listed Building or its setting, have special regard to the desirability of preserving the building and its setting, and any features of interest it possesses. In this context preservation means not harming the interests of the building as opposed to keeping it unchanged. Furthermore Chapter 16 of the NPPF states that in determining applications local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and that harm should not be permitted without a proportionate justification. This approach is also supported by Policy LP35 of the Local Plan.

The application would in principle support the aims of sustainable development as set out in Policy LP1 and the NPPF in that it would enhance the viability of an existing business whilst minimising its impact on the natural environment. It is therefore considered in principle to support planning objectives subject to a full assessment of visual amenity, heritage, residential amenity, environmental and drainage issues, to be assessed in detail below having regard to the aforementioned Local Plan policies and NPPF guidance.

2 –Impact on visual amenity: The proposed development would be typical of a modern industrial building and would be sited among or close to other modern structures that make use of similar external materials and have the same finish colour.

The site is partly within the boundary of the Linthwaite Conservation Area. It is considered that the existing structures and buildings on site do not make a positive contribution to the Conservation Area or its setting. It is 50m away from the nearest Listed Building, 10-18 Barber Row. The proposed development would be visually subordinate both to the Listed Building and to the traditional stone-built terraced development on or close to the Manchester Road frontage, owing to its being sited a considerable distance away and at a lower level.

It is concluded that the proposal would conserve the significance of the Conservation Area and the setting of the Listed Building, and more generally would not have any adverse impact upon the townscape or landscape.

As such it would accord with the aims of LP24(a), LP35, sections 12 and 16 of the NPPF, and the Council's duty under Planning (Listed Buildings and Conservation Areas) Act 1990.

3 – Impact on residential amenity: A Noise Impact Assessment was submitted with the application. The Environmental Health Officer accepts the findings of the report subject to a condition that noise levels do not exceed the background sound level. An odour impact assessment has been supplied and it is concluded that the impact of odour upon sensitive receptors is not significant in this case.

The site is approximately 5m away from land that is deemed to be potentially contaminated owing to its past uses. The findings of the Phase I and Phase II report are accepted. The Remediation Strategy is also on balance considered acceptable. It is recommended that conditions are imposed to the effect that the Remediation Strategy must be implemented and a verification report supplied before the development is brought into use.

It is considered that subject to the above conditions the development would not give rise to any loss of residential amenity or other environmental problems and would accord with the aims of LP24b, LP52, LP53 and NPPF15.

4 – Impact on highway safety: The proposal would result in the loss of 4 no. parking spaces. The Thornton & Ross site however benefits from a large car park. Whilst the car park seems to be heavily used, the availability of parking would still be far better than would have been the case before the car park was constructed (permission 2015/90319). There are waiting restrictions on both sides of Manchester Road east and west of the site entrance and on Hoyle House Fold.

It is considered that the development would not lead to a material intensification of the use of the site and that the loss of 4 parking spaces would be unlikely to give rise to unsafe parking on the public highway. Officers' assessment is therefore that the development would therefore not affect the safety or convenience of highway users and would accord with the aims of Policies LP21-22.

5 – Drainage and flood risk: Paragraph 159 of the NPPF states that: "Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or

future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere."

Part of the Thornton and Ross site is within Flood Zone 2 and 3 (land assessed as a medium to high risk of flooding), but the proposed siting of the facility is within Flood Zone 2. Under the Kirklees Flood Risk Standing Advice, new commercial development will usually require a sequential test if in Flood Zone 2. In this instance, it is considered that the proposed location passes the sequential test since it would be unreasonable to be sited elsewhere since the proposed development is functionally linked to the existing industrial complex and cannot realistically be located outside the site or in an area not vulnerable to flooding. Furthermore, it would not lead to a significant increase in run-off or in water being discharged to the River Colne since it would be built on land that was already hard-surfaced.

A Flood Risk Assessment was submitted with the application. The FRA deems the proposed development to fall within the "less vulnerable" category and concludes that the sequential test has been passed, with which officers concur. The Environment Agency have advised that the development will meet the NPPF's requirements subject to a condition that it shall be carried out in accordance with the submitted flood risk assessment. It is considered that a condition thus worded would be enforceable since the FRA contains specific mitigation or resilience measures in Table 3, section 11 Summary and conclusions.

In conclusion, the development would be in accordance with the aims of LP27 and 28 and Chapter 14 of the NPPF.

6 – Other issues:

Ecological issues: The site is in the Twite buffer zone and bat alert zone. Based on the existing character of the site, the development is unlikely to result in the loss of any ecological value and is also unlikely to present any opportunities for ecological enhancement. It therefore accords with the aims of LP30.

Climate Change:
On 12th 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 pre-dates 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 will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

The application has submitted a Climate Change Statement, which is now part of the local validation requirements. This explains that the possibilities for reducing or limiting carbon emissions associated with the development are very limited because the design and materials are driven by technical requirements. The plant will however be sited close to the existing industrial complex, which is accessible by means of transport other than the private car. It is considered that in the circumstances the applicant will not be required to take further measures to demonstrate how it would contribute to reducing the causes and impacts of climate change, and that it would be compliant with the aims of LP24(d) and NPPF Chapter 14.

Health & Safety:
The site lies within the Outer zone for Health & Safety purposes (Grosvenor Works, Lees Mills Lane, Linthwaite). The Health & Safety Executive have raised no concerns and do not recommend any conditions. It is considered that the development would not expose users to any undue risks beyond those incurred by the site as a whole.

7 – Conclusion: The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

Recommendation – CONDITIONAL FULL PERMISSION

Decision Authorisation - Delegated Powers

Application Number: **2023/90710**

Officer Recommendation: CONDITIONAL FULL PERMISSION

Conditions and Reasons

1. The development hereby permitted shall be begun within three years of the date of this permission.
Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, to mitigate flood risk, contamination and pollution and to accord with Policies LP24. LP27, LP28, LP52 and LP53 of the Local Plan.

3. The combined noise from any fixed mechanical services and plant and equipment shall be effectively controlled so that the combined rating level of noise from all such equipment does not exceed the background sound level at any time. ‘Rating level’ and ‘background sound level’ are as defined in BS 4142:2014+A1:2019.
Reason: To ensure the proposed development does not cause harmful noise pollution within neighbouring noise sensitive locations, in the interest of amenity, to comply with the aims and objectives of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

4. Remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report is identified or encountered on site, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.
Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 183 and 184 of the National Planning Policy Framework

5. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Verification Report by a suitably competent person shall be submitted to the Local Planning Authority. No part of the development shall be brought into use until such time as the remediation measures have been completed for the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Verification Report in respect of those remediation measures has been approved in writing by the Local Planning Authority.
Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 183 and 184 of the National Planning Policy Framework.

6. The development shall be carried out in accordance with proposed mitigation measures set out in table 3, section 11 of the submitted flood risk assessment RPS, referenced HLEF 85510 and dated 27 February 2023.
Reason To mitigate the identified risk from flooding to the proposed development in accordance with Policy LP27 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

NOTE – Contamination reports:
All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2021. Reports must be prepared in accordance with the following guidance:

- Land Contamination Risk Management (LCRM)
- BS 10175:2011+ A2:2017 Investigation of Potentially Contaminated Sites. Code of Practice
- Development on Land Affected by Contamination - Technical Guidance for Developers, Landowners & Consultants - (v11.2) June 2020 by the Yorkshire and Lincolnshire Pollution Advisory Group.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Application form			06-Mar-2023
Location plan	AAA5568-RPS-XX-XX-DR-A-1001		06-Mar-2023
Covering letter			06-Mar-2023
Flood risk assessment	HLEF 85510		06-Mar-2023
Noise assessment	JAJ03251-REPT-01		06-Mar-2023
Odour impact assessment	JAR03319		06-Mar-2023
Existing site plan	AAA5568-RPS-XX-XX-DR-A-1002		06-Mar-2023
Proposed site plan	AAA5568-RPS-XX-XX-DR-A-1003		06-Mar-2023
Detailed plan	3401-02-FBP-S-200-S3-03		06-Mar-2023

Plan Type	Reference	Version	Date Received
Detailed plan	3401-02-FBP-S-201-S3-04		06-Mar-2023
Detailed plan	3401-02-FBP-S-202-S3-03		06-Mar-2023
Siting layout	5374-I LY03	01	06-Mar-2023
Plant layout	5374-I LY02	00	06-Mar-2023
Phase 1 contamination report	JER8811-01	01	06-Mar-2023
Phase 2 site investigation report	JER8811-02	00	09-Jun-2023
Remediation strategy	JER10183-01	00	17-Jul-2023
Climate Change Statement			05-May-2023

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. The case officer undertook negotiations with the applicant to secure a Climate Change Statement, Phase II Contaminated Land Report and Remediation Strategy, which were submitted and informed the final decision.

Report Dated: 23-Aug-2023