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:	**2023/62/90793/W**
Site Address:	Technology House, Dyson Wood Way, Bradley, Huddersfield, HD2 1GN
Description:	Change of Use from technical development/storage area with 2 storey office to Use Class F1 Learning and Non-Residential Institution
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: 18th May 2023

Officer Report 2023/90793
Technology House, Dyson Wood Way, Bradley, Huddersfield

Site Description

The site comprises a large, modern, commercial building and associated land. It is up to two storeys in height (although it appears that the area is partly open-plan with a mezzanine), faced in brick and artificial cladding, and with a shallow dual-pitched roof. It is accessed via Alexandra Court, an unadopted spur leading north off Dyson Wood Way and is placed north-west of the head of the cul-de-sac. The spur also serves three more recently-erected commercial units, to the east, and one to the west (that is, to the south of the building now under consideration).

To the north, the site is bounded by Bradley Road. There is a gentle upward gradient from Dyson Wood Way to Bradley Road with some semi-natural vegetation and banking along the Bradley Road boundary.

The hard-surfaced land immediately to the south of the building consists of car parking. A service road extends around the eastern side of the building providing service access to the rear.

Description of Proposal

The proposal is for change of use from technical development/storage/office to a school.

No external alterations either to the building itself or the access to the site are proposed.

According to the applicant's supporting statement:

- The school would be run by Pivot Academy, who offer schooling for learners with complex social, emotional, mental health and other associated needs;

- The site will support around 35 pupils and will have 15 staff members.

- General school hours will involve pupil drop off, often in taxi's, by 9.30am, with collection at 2.30pm. Where needed, staff may also use the school minibus to collect pupils from home, or to undertake welfare visits to check on vulnerable pupils if they have not attended.

- Pivot operate a similar use in the adjacent building, Salus House, to the immediate west of the site. That application was approved in June 2021 as an independently registered school for children between 7 and 16 years old.

History of negotiations/amendments received

None.

Relevant Planning History

2009/93495 – Erection of technical development / storage area with 2-storey office, associated parking and site access. Approved and implemented.

2022/94109 – Change of use from technical development, storage and office to E(g)(ii) (research and development) , E(g) (iii) (industrial processes), B2 (general industry) or B8 (storage and distribution) uses

Representations

Final publicity date expires: 21-Apr-2023 (publicity by neighbour letter only in accordance with the requirements of the Development Management Procedure Order)

One representation received. Comments made:

- It would be good to maintain the green 8ft security fencing
- I object to any company name on rear of building facing Bradley Road to maintain link between residential / business, none of the existing buildings have one.

Consultation Responses

KC Highways Development Management – No objection.

KC Environmental Health – No objection subject to conditions.

KC Crime Prevention – No objection subject to condition.

KC Education – No objection.

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 a Priority Employment Area on the Local Plan.

Kirklees Local Plan (LP):

- **LP 1:** Presumption in favour of sustainable development
- **LP 7:** Efficient and effective use of land and buildings
- **LP 8:** Safeguarding employment land and premises
- **LP 20:** Sustainable transport
- **LP 21:** Highways and access
- **LP 22:** Parking
- **LP 24:** Design
- **LP 30:** Biodiversity and geodiversity
- **LP 49:** Educational and health care needs
- **LP 52:** Protection and improvement of environmental quality

Supplementary Planning Documents:

- KC Highways Design Guide 2019
- Biodiversity Net Gain Technical Advice Note
- Climate Change Guidance for Planning Applications

These documents can also be viewed in G:\Planning\SPDs & Guidance Notes.

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 8 – Promoting healthy and safe communities
- 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.

Assessment
The following matters are considered in the assessment below –

1) Principle of development
2) Impact on local economy
3) Impact on visual amenity (including any heritage considerations)
4) Impact on residential amenity

5) Impact on highway safety
6) Other matters – e.g. trees/ecology (e.g. bats)
7) Representations
8) Conclusion

1 – Principle of development: The site is within land designated as a Priority Employment Area on the Local Plan proposals map. Policy LP8 states that within such areas, proposals to develop or redevelop for employment-generating uses will be supported where there is no conflict with established employment uses. Proposals for non-employment generating uses will only be supported where it can be demonstrated that the land or premises are no longer capable of employment use and that the proposed use is compatible with neighbouring uses and would not prejudice their continued use for employment.

It is a requirement under Policy LP8 of the Local Plan that changes of use to non-employment uses within Priority Employment Areas should be accompanied by evidence demonstrating that the premises are no longer capable of employment use. In this case, the re-use is an employment generating use that would provide 15 members of staff.

Under Policy LP49, proposals for new or enhanced educational facilities will be permitted where:

- They will meet an identified deficiency in places;
- The scale, range, quality and accessibility of education facilities are improved;
- They are well related to the catchment they are intended to serve to minimise the need to travel or can be made accessible by cycling, walking or public transport.

It is considered, based on the favourable comments from KC Education, that the proposal would comply with the aims of LP49.

The proposal will further be assessed against highway safety, environmental and amenity objectives as set out in the Local Plan policies listed above.

2 – Impact on local economy: Paragraph 7.21 states that for the purposes of policy LP8, employment-generating uses are those recognised as B-use class employment uses in the Town & Country Planning Use Classes Order Guide 1987 as amended, and “enterprises which provide jobs, for example retail, hotel, assembly & leisure and certain non-residential sui-generis uses (such as clubs, cash and carry businesses and builders’ merchants)”.

The proposed change of use would directly sustain 15 jobs. Based on a literal reading of Policy LP8, it would be in accordance with the Local Plan since it would qualify as an “enterprise which provides jobs”. If, notwithstanding this, the proposed educational use were to be classed as a “non-employment use,” the onus would be on the applicant to demonstrate that the premises are not capable of employment use. Following the approach that was taken with the

Salus House application, the applicant was asked to provide evidence of attempts to market the premises. The applicant claims that the premises have been marketed over a period of 21 months by being promoted on a number of commercial property websites, direct mailing to a database of registered local businesses seeking accommodation, and by direct mail to “around 105” Yorkshire letting agencies. The results were that 7 different businesses expressed an interest in the premises, but that discussions did not lead to a successful sale or lease.

It is considered, based on the above information, that the premises are difficult to let or sell for employment-creating uses. The proposal now being considered would therefore, from a planning point of view, appear to represent a pragmatic solution that would allow the premises to be used in a way that generates income and sustains jobs. Furthermore, the change of use would not prejudice the future resumption of business or industrial uses (those within Class E of the Use Classes Order) if the proposed educational use were to cease. It would therefore be compatible with the aims of LP8.

3 –Impact on visual amenity: Since the proposal is a change of use only with no building or other external works, it would have no implications for visual amenity.

4 – Impact on residential amenity: The applicant has submitted a Noise Impact Assessment authored by SLR dated February 2023 Ref 403.000017.00002. It considers the impacts associated with the proposal and the creation of educational use at the Site. Reference is made to the previously approved application (2021/90714) at Salus House, Dyson Wood Way which has been viewed as similar in nature to existing F1 Class use development in the immediate area and this is accepted.

A baseline noise survey was undertaken over weekday and weekend periods between Thursday the 15th and Monday the 19th of December 2022 from a single monitoring position as shown in figure 4.1. This was deemed to be appropriate to the nearest noise sensitive receptor (NSR) being 333 Bradley Road at 39m from the existing industrial building and 24m from the edge of the service yard, with an existing vegetation buffer between. The report finds the sound climate at the measurement location consisted mainly of constant road traffic movements including local traffic of the A6107 Bradley Road and distant traffic from major routes.

While the development does not propose any modifications to any plant or equipment at the site, it identifies 3no. external condensers located immediately south of the loading area. Based upon reasonable sound power outputs for each unit, a BS4142 assessment was conducted, applying a +3dB correction for intermittency. Table 5.3 assesses a low impact, finding a -20dB excess rating over the background sound level and this is accepted.

The report proceeds to consider the external area noise generation stating it has been understood that external areas of the scheme would be occasionally used by up to 10 No. children under adult supervision, during discrete periods of the day and for teaching and/or recreational activities. Modelling has been conducted based upon established guidance for normal voice, raised speech and shouting and figures 6.4 & 6.5 show the respective values at the nearest NSR. The figures show there should be no impact upon external amenity as per the requirements of BS8233 as for most of the time, significant masking would be provided by the existing road traffic noise.

The findings of the report have been accepted by Environmental Health. It is considered that the premises would be able to function without causing harm to the amenities of residential properties by reason of noise, or other factors, subject to hours of use being appropriately conditioned. The prescriptive condition on hours of use recommended by Environmental Health would give future occupiers the possibility of increased hours of use beyond those requested by the applicant, but not evenings or weekends. It is considered that it would be appropriate to word the condition “No activities shall be carried out…” rather than “The premises shall not be open…” since the latter is vague and might be difficult to enforce.

A prescriptive condition is also recommended for fixed mechanical plant noise in order to prevent the loss of amenity to neighbouring properties. Subject to the above it would accord with the aims of Policy LP24(b) and LP52.

5 – Impact on highway safety: No changes are proposed to the existing vehicular access and car parking arrangements for the proposed development. The existing car park provides a total of 20 spaces, including 2 spaces allocated for disabled users. An additional 3 spaces are provided within the service yard. Cycle stands are provided on the southern side of the car park. It is considered that the amount of parking on site is sufficient both for staff parking and for student pick-up and drop-off.

The proposed development is anticipated to generate an absolute maximum of approximately 50 and 15 two-way vehicle movements during the weekday AM and PM peak hours. On average this represents less than one vehicle every minute during the weekday AM peak hour, and every four minutes during the weekday PM peak hour. This allows for the worst-case scenario where every member of staff and all the pupils arrive and depart in a single occupancy vehicle which is unlikely to be the case. This assessment is therefore considered to be robust.

Based on the above, the proposed maximum traffic generation can be accommodated safely by the existing local road network. The existing access and parking arrangements are considered fit for the proposed purpose. It is therefore considered that the proposed change of use would not affect highway safety and would accord with the aims of LP20-22.

6 – Other matters:

Crime and security:
The applicant has submitted a suite of security measures, including retention of the existing fencing, gates, security lighting and intruder alarm. The Designing Out Crime Officer has examined the proposals and confirmed that they are adequate and that no further details will be required. It is therefore considered that no further information or conditions are required to safeguard the security of future users of the premises and that it would comply with the aims of Chapter 8 of the National Planning Policy Framework.

Biodiversity:
The site does not occupy land specially designated for biological conservation purposes. Since the proposal is for a change of use only with no new build and is unlikely to represent a material intensification of the site, it is considered that in the circumstances it would be unreasonable to require ecological enhancements as a condition of granting planning permission.

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 applicant's Climate Change Statement does not propose any measures to be incorporated into the development to reduce carbon consumption (e.g. by utilising renewable or low-carbon energy sources). But the proposal is for the reuse of an existing building without new build or alteration and is unlikely to amount to a significant intensification of the use in terms of vehicle trips. It is considered that in the circumstances the applicant does not need to demonstrate further measures to combat climate change. Since the proposal is for a change of use only it is considered that that it would be unreasonable to require the installation of electric vehicle charge points as a condition of granting planning permission. This is something that can be left to the discretion of the applicant. The proposal is deemed to be in accordance with the aims set out above, and set out in NPPF Chapter 14 and LP24(d).

7 – Representations: One representation was made. The comments are summarised below with officer responses.

- It would be good to maintain the green 8ft security fencing

Response: It appears that the applicant's intention is to retain it.

- I object to any company name on rear of building facing Bradley Road to maintain link between residential / business, none of the existing buildings have one.

Response: This is something that would be covered by the Control of Advertisement Regulations and is not within the scope of the current application.

8 – 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 **Approve**

Decision Authorisation - Delegated Powers

Application Number: **2023/90793**

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 combined noise from any fixed mechanical services and external 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.

3. No activities shall be undertaken within the site outside the hours of -
• 0700hrs to 1800hrs Monday to Friday
No activities shall be undertaken within the site on Saturdays or Sundays. There shall be no deliveries to, or dispatches from the premises outside these hours. No deliveries to, or dispatches from the premises shall take place on Bank Holidays.
Reason: To ensure that the proposed use does not give rise to the loss of amenity to nearby residential properties, by reason of noise or disturbance at unsociable hours, to accord with the aims of Policies LP24(b) and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Application form			13-Mar-2023
Covering letter			14-Mar-2023
Highways technical note	Version 1.0		13-Mar-2023
Noise impact assessment	200065		13-Mar-2023
List of security measures installed			11-May-2023
Location and site plan	(0-)-2	C	13-Mar-2023
Original approval plans	(0-) 03		13-Mar-2023
Original approval sections	(0-) 04		13-Mar-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 Planning 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 requested details of security measures, which were supplied and informed the decision.

Report dated:

18-May-2023