KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 73

DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS TO CARRY OUT DEVELOPMENT WITHOUT COMPLIANCE WITH PLANNING CONDITIONS PREVIOUSLY ATTACHED

Reference No:	**2023/70/91126/W**
Site Address:	Land adj, lock 38, Marsden Lane, Marsden, Huddersfield, HD7 6AF
Description:	Variation of conditions 2 (plans and specifications), 3 (access and retaining structures), 4 (finished floor levels), 5 (lighting), 6 (invasive species), 7 (ecology), 8 (hedge planting) and 9 (surfacing) of previous permission 2019/90988 for use of land for provision of camping facilities, formation of camper van sites, erection of four camping pods, toilet block and associated works to amend unit dimensions, layout and associated alterations and to address matters requing submission of details by conditions 3, 4, 5, 6, 7, 8 and 9.
Recommending Officer:	John Holmes

DECISION – Variation of Conditions – Approve

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.

Victor Grayson

AUTHORISED OFFICER

Date: 14-Aug-2023

THE SITE

The site relates to a 0.9 hectare piece of land within the green belt located between the River Colne and the Huddersfield Narrow Canal in Marsden.

The site is covered by mature trees and vegetation with a vehicular access track leading from Marsden Lane through part of the site to a Canal and River Trust depot to the north of the site. The canal is located to the north with its associated tow path abutting the site and locks 37 and 38 adjacent to the site.

The rear of residential properties off Marsden Lane look over the site with three further residential properties located adjacent in the south western corner of the site. Further to the south of the site on the opposite side of the River Colne is a further area of trees with the A62 further beyond.

THE DEVELOPMENT

Submitted under Section 73 of the Town and Country Planning Act 1990 (as amended), this application seeks permission for the variation of conditions 2 (plans and specifications), 3 (access and retaining structures), 4 (finished floor levels), 5 (lighting), 6 (invasive species), 7 (ecology), 8 (hedge planting) and 9 (surfacing) of previous permission 2019/90988 which permitted the following development:

> Use of land for provision of camping facilities, formation of camper van sites, erection of four camping pods, toilet block and associated works

The purpose of this application is to amend unit dimensions, layout and associated alterations and to address matters requiring submission of details by conditions 3, 4, 5, 6, 7, 8 and 9.

In addition to the application form, the application has been submitted with the following supporting plans / documents: -

- Drawing C08RevA detailing a section of the access to the site
- Drawing titled ‘Proposed Amended Layout’ ref C01RevA
- Drawing titled ‘Landscape Plan’ ref C02
- Location Plan ref C10
- Drawing titled ‘Plan showing floor levels’ ref C09
- Drawing titled ‘External Lighting Plan’ ref C07
- Drawing titled WC / Shower Block ref C06
- Drawing titled Family Cabin Units 3, 4 and 5 ref C05
- Drawing titled ‘Single Cabin unit 2’ ref C04
- Drawing titled Wardens Cabin Unit 1 ref C03
- Ecological Design Strategy ref MBE/ECO/2023/10/01
- Document titled ‘Porus Paving Details’ dated April 2023. This document makes reference to the fact it is to be read in conjunction with drawing C02.
- Document titled ‘Removal of Himalyan Balsam

- Document titled ‘External Lighting Details’ This document makes reference to the fact it is to be read in conjunction with drawing C07.
- Supporting Statement

Drawing C01RevA details the layout of the site, and shows units 1 – 5 (with elevation and floor plans of the units provided in drawings C03, C04 and C05). This drawing also shows the location of the toilet / shower block (elevations and floor plans detailed in drawing C06) as well as the location of five Camper Van plots, car parking including the electric vehicle charging points, the provision of four parking spaces to the front of units 1/2 and unit 5 and the provision of passing places along the access track.

The units which are proposed are of the following dimensions:

- Shower block, 4.8m x 4.4m and 2.6m to the roof (sloping down to 2.4m).
- Units 3, 4 & 5, 7.6m x 3.8m and 2.7m to the roof (slopping down to 2.5m).
- Unit 2, 4.25m x 5m and 2.9m to the roof (sloping down to 2.85m).
- Wardens Cabin, Unit 1, 7.1m x 6.4m and 2.8m to the roof (sloping down to 2.4m).

The units are of a mono pitch roof design and vertically clad in timber boarding.

The measurements which have been taken from the submitted plans differ from those detailed within the submitted supporting statement ,with the measurements in the statement appearing to have been taken from within the cabin rather than including the external walls.

In summary, the statement sets out the following:

- Following gaining planning permission it was considered adjustments to the approved development would improve the project
- Bushcraft use is no longer required which would result in fewer traffic movements
- A canal barge at site is being used as a site office and welfare facility for employees / visitors and shall be removed once works are complete.
- The relocated toilet block is more convenient for users of the camper van pitches

In addition, within an email dated 17th July 2023 detail is provided in relation to query raised by the council’s Highways Team in relation to detail submitted to satisfy condition 3.

In an email dated 31st July 2023 the planning agent for this application confirmed the following points:

- The barge would be removed from site within a timeframe of 18 – 24 months
- The roof finish will be sedum (green roof)
- The development has been undertaken in accordance with the requirements of conditions 11 and 12 of consent 2019/90988.

PLANNING HISTORY

The most relevant planning history for the site relates to the following:-

> 2019/90988 – Use of land for provision of camping facilities, formation of camper van sites, erection of four camping pods, toilet block and associated works – Approved 4th August 2021

There is another application applicable to this site (ref: 2017/94366) which relates and approval for the change of use of land for bushcraft activities.

As the August 2021 permission has been commenced on site, it is considered that application is the most relevant in the consideration of this proposal.

REPRESENTATIONS

Publication of the application has been undertaken in accordance with the Council's Development Management Charter (2015).

The application has been publicised on the Council's website, and by neighbour notification letter. The expiry date of the publicity period was 7th June 2023.

[Note – The word 'letter' below should be taken to include hand-written letters, emails and online representations.]

Letters of Objection

17 Letters of objection have been received raising the following, summarised, concerns:

- The approved proposal was a campsite but the development the subject of this application is a change of use for self-catering accommodation which is a change of use outside the scope of this application.
- The design of the proposal is obtrusive, detracts from the character of the locality and is detrimental to the green belt setting.
- Impact of the departure from the original design is a major concern.
- The increased floor area is substantial with an increase in three of the pods from 44m^2 to 87m^2.
- The proposal suggests a full-time warden would not be present upon the site as the warden cabin is called 'Reception Cabin' which is not in accordance with the original permission.

- The lighting which is proposed would have a detrimental impact on wildlife.
- Previously seen / heard bats and owls are not sighted any more due to construction works
- Construction and other works have been undertaken in manner which has a detrimental impact upon wildlife.
- Mature trees have been cut down
- Himalayan Balsam present on the site and should be disposed of correctly.
- The canal boat on site forms additional accommodation which can be used and did not form part of the approved consent and should be removed.
- Screen planting will take 10 – 15 years to reach 2.5m in height.
- Bushcraft for local school children appears to have been dropped from the proposal.
- Noise and disturbance would be intrusive.
- Waste storage is unsightly.
- Parking to the front of the units causes nuisance from artificial light.
- Impact upon sleeping patterns for neighbours as a result of lighting
- The previous proposal has 72 objections.
- Safety of pedestrians compromised by the change in parking arrangements.
- Overlooking impact of the development.
- There is not sufficient retaining structures in place to prevent damage to adjoining road / property.
- No electrical charging points are available.
- The site is in use in breach of conditions of the original permission.
- The time it will take for hawthorn screening to grow, and the lack of any warden on site leads to concerns about crime and anti social behaviour occurring.
- A fire pit is shown on the plan, however the previous consent did not allow this.
- The site is being advertised as available to arrive / depart for much extended hours of the day than the permission allows.
- Would non-compliance of planning permission be tolerated were it undertaken by a local home owner.
- The council has failed to prevent the deviation from the original permission.
- To ensure there is not excess waste / littering there should be a requirement to provide regularly emptied waste and recycling facilities not just on site but in the adjacent areas guests / visitors are likely to utilise.

Letters of Support

18 Letters of support have been received, raising the following summarised points:

- The site is being positively utilised and developed to be a valuable asset to the area and local economy.

- Attracting others to the area is something which is needed in the locality.
- Look forward to using the facility which provides access to the countryside.
- Always viewed the site as wasteland which attracted fly tipping.
- The structures compliment the landscape.
- The proposal will attract tourism to the area who will use local businesses having a beneficial impact to the local economy.
- As a walker / cyclist this is the kind of place look to stay in and provides further options for tourists.
- The development compliments and blends into the locality well.
- Development is high quality and low impact and introduces a facility for which Marsden does not have enough.

Letters of Comment

None

CONSULTATIONS

The following consultations have been undertaken for this application with the summarised responses listed below.

KC Environmental Health – No objection

Designing Out Crime Officer – No objection

KC Ecology – Confirms considers the detail submitted for conditions 6 and 7 is acceptable, they requested further information in relation to condition 5. Their response to the further submitted information has not, to date, been received.

KC Highways Development Management – No objection

KC Trees – No response received

Canal and River Trust – No objection, informative notes recommended.

The responses of the above consultees are discussed in greater length within the 'Assessment' section of this report.

ALLOCATION AND POLICIES

The following allocation and policies were considered relevant to the consideration of consent 2019/90988:-

Kirklees Local Plan

LP1 Achieving Sustainable Development
LP2 Place Shaping

LP21 Highways and Access
LP22 Parking Provision
LP23 Core Walking and Cycling Network
LP24 Design
LP27 Flood risk
LP30 Biodiversity and Geodiversity
LP33 Trees
LP34 Conserving and enhancing the water environment
LP47 Healthy, active and safe lifestyles
LP52 Protection and Improvement of Environmental Quality
LP56 Facilities for Outdoor Sport, Outdoor Recreation and Cemeteries

Supplementary Planning Guidance / Documents

Highways Design Guide

National Planning Guidance

Chapter 8 – Promoting healthy communities
Chapter 9 – Promoting sustainable travel
Chapter 12 – Requiring Good Design
Chapter 13 – Protecting Green Belt Land
Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
Chapter 15 – Conserving and enhancing the natural environment

Insofar as they are relevant to the consideration of this application the following Assessment makes reference to the applicable policy / legislation.

ASSESSMENT

This Section 73 application seeks minor material variations to the originally approved plans which have come about by a change in the design and layout of the site.

It is considered that the key determining issues in the consideration of this application is are highway safety, visual amenity (including impact upon open character and appearance of the green belt), ecology, residential amenity,

The National Planning Policy Framework has been updated since the determination of the previous application. It is not considered update of the NPPF has a significant impact upon the determining issues considered applicable in this case.

The determining issues are assessed as follows:-

Highway Safety

Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF relate to access and highway safety and are considered to be relevant to the

consideration of this application. The council's adopted Highway Design Guide SPD, and Principles 12 and 19 of it which seeks to ensure acceptable levels of off street parking, adequate waste storage facilities are provided, are also considered to be of relevance.

The decision to grant consent for the development of the site (ref 2019/90988) is subject to conditions 3 and 9 which state the following:

> *'3. Prior to works commencing on the provision of the widened access to the application site, as detailed on Dwg. No. 1640-103, details of the retaining structures and surfacing required to widen the access shall be submitted to and approved in writing by the Local Planning Authority. The widened access shall be constructed before the development is first brought into use and shall be constructed in accordance with the approved details.*
> ***Reason:** In the interests of highway safety and to ensure that structures required to form the widened access are of an acceptable standard and in the interests of visual amenity and the character and appearance of the Green Belt. To accord with the requirements of Policies LP21 and LP24 of the Kirklees Local Plan and Policies in Chapters 12 and 13 of the National Planning Policy Framework.*
>
> *9. Before works commence on the formation of the camper van plots and parking spaces, number 1-8 details on Dwg. No. 2018-541-03 F details of surfacing shall be submitted to and approved in writing by the Local Planning Authority. The approved surfacing shall be installed before the development is first brought into use and retained after.*
> ***Reason:** In the interests of highway safety and to ensure that the surfaces are appropriately surfaced and drained and to accord with Policy LP21 of the Kirklees Local Plan.'*

In relation to condition 3 drawing C08RevA details a section of the access to the site

A document titled 'Porus Paving Details' dated April 2023, which makes reference to the fact it is to be read in conjunction with drawing C02, has been submitted to address the requirement of condition 9 for details of surfacing to be submitted.

The submitted document sets out that a 'Sudspave' system of interlocking cellular plastic units is to be used to the access and parking areas. This is porus paving system which is then infilled with gravel / aggregate. The system retains the infill to ensure the surfacing does not get removed as a result of vehicle movements over it. Within their response of 15th May 2023, Highways Development Management do not raise objection to the submitted detail in relation to condition 9.

Within their response of 15th May 2023, Highwways Development Management requested that further details be submitted in relation to condition 3. Following receipt of their initial response the applicants' planning

agent has submitted drawing C08RevA. In addition, confirmation has been provided within an email provided by the applicants' planning agent in regard to condition 3.

In their subsequent response to consultation, Highways Development Management advised they have no objection to the development.

Taking account of the submitted detail and subject to the conditions being updated to reflect the submitted information and require the development undertaken in accordance with the submitted detail / plans it is considered that the proposal is acceptable in terms of highway safety and in accordance with the aforementioned policies.

Visual amenity (including impact upon open character and appearance of the Green Belt),

Local Plan Policies LP1, LP2 and most importantly LP24, are all also relevant. All the policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development in the local area and is visually attractive.

Condition 3 of the original consent (detailed in the highway safety section of this report) was required in the interests of visual amenity and the character and appearance of the Green Belt. In addition to this condition 4 (finished floor levels) and 8 (landscaping) were required for visual amenity reasons. These conditions state the following in full:-

> *'4. Before works commence to form the wardens cabin or the camping pods a scheme of details of finished floor levels of each cabin/pod together with corresponding finished ground levels shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out only in accordance with the details so approved and no cabin/pod shall be occupied until the works relating to that cabin/pod have been completed. Such levels shall thereafter be retained. Reason: To ensure the development is in keeping with character of the local area and to protect the openness of the Green Belt and to accord with the requirements of Policy LP24 of the Kirklees Local Plan and Policies in the National Planning Policy Framework.*
>
> *8. Before the development is first brought into use, details of hedge planting along the northern boundary including proposed species, sizes, planting rates and a planting timetable for the new hedge shall be submitted to and approved in writing by the Local Planning Authority. The hedge shall be planted in accordance with the approved scheme and all planting in the approved scheme shall be carried out in the first planting season following the first occupation of the development. Any plants which within a period of 5 years are removed or are noticeably damaged or diseased, or have failed to establish or make reasonable growth, shall be replaced in the next planting season with others of the same size and species, unless the Local Planning*

Authority give written approval of a variation of the first planting. Reason: In the interests of the visual amenity of the site, to enhance local ecology and the character and openness of the Green Belt in accordance with Policies LP24 and LP30 of the Kirklees Local Plan and Policies in Chapter 15 of the National Planning Policy Framework.'

Condition 2 of the original permission required the development to be undertaken in accordance with the submitted plans. This application seeks to amend the plans list schedule. The key amendments to the scheme which are proposed relate to the layout of the site and the size / scale of units 1 – 5. The proposed plans detail the bin store in a location adjacent to the access and re siting of the toilet / shower facilities nearer the camper van plots and less central within the site.

The proposed bin storage area is in a part of the site of greater prominence, although it is noted this would be usable for users of the site given they would need to pass this area regardless, compared to the bin storage area as approved which required an additional trip to be made / couldn't be linked with leaving the site in any case. The re sited area would potentially reduce the risk of increased litter associated with the development given it is in a more convenient location.

The re-siting of the units and toilet block, and re alignment of pedestrian pathways through the site has lead to a layout which does not encroach as far into the site in terms of buildings and associated accesses.

Whilst it is acknowledged that the development would be for larger units, and these accommodate more service, the visual impact of the proposal is not considered the be significantly greater than that for which planning permission was granted by the original consent.

Drawing C09 details the levels of the site, these are not considered to be excessively built up and the proposal is considered to be acceptable in this regard given the units would be at a similar level to the access track to the north of the units.

In terms of landscaping, condition 8 required a scheme be submitted to the LPA and agreed in writing. This application is accompanied by drawing C02 which sets out hedgerows to the north of the units between the access and the units. In addition, the hedgerows would be around the boundaries of the car park and the camper van plots. Hedgerows would also form a boundary between the individual units.

A gap in the hedgerow would be in place following removal of the temporary site office, this is adjacent to a part of the site which is a wildflower mix and would allow some view through the site, whilst the remaining hedgerows would offer some level of screening.

Hard landscaping is shown on the submitted plan as being limestone patch / hardstanding and other areas are shown as being wildflower mix. The

landscaping scheme shows a hatched area where no development would take place. Stone flags around unit 1 (wardens office) are also proposed. It is considered that the proposed landscaping scheme offers a suitable mix, in conjunction with the retained landscaping which is also shown on submitted drawing C02.

The landscaping is considered to make a positive contribution which strikes an acceptable balance between preventing views through the site, and subsequent impact upon the open character of the site whilst achieving a suitable level of screening which softens the impact of the structures.

Taking account of the submitted detail it is considered that the development is acceptable in terms of impact upon visual amenity and does not have a significant impact on openness of the green belt over and above that which the original consent has.

It is therefore recommended that conditions 2, 4 and 8 be reworded to require the development be undertaken in accordance with the plans / detail submitted as part of this application.

Ecology

Paragraphs 174, 180, 181 and 182 of Chapter 15 of the National Planning Policy Framework are relevant, together with The Conservation of Habitats and Species Regulations 2017 which protect, by law, the habitat and animals of certain species including newts, bats and badgers.

Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance.

Conditions 5, 6, 7 and 8 were required for the following reasons. To ensure that inappropriate artificial lighting does not have a detrimental effect on local ecology (condition 5); in the interests of ensuring ecological enhancement measures sufficient to provide a biodiversity net gain were secured (condition 7); to remove an invasive species from the site (condition 6) and to enhance local ecology (condition 8).

Condition 8 is detailed in the ‘Visual Amenity’ section of this report. Conditions 5, 6 and 7 are copied below for reference:

> *5. Before the development is first brought into use, a scheme of details of all external lighting to be installed at the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following information: a) How and where external lighting will be installed (through the provision of a detailed site plan and appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated which areas are to be lit; b) Detail proposals to minimise or eliminate glare from the use of the lighting installation; and c) Detail proposed hours of operation of the lighting. The development shall be carried out in accordance approved details*

which shall thereafter be maintained. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority. Reason: To ensure that inappropriate artificial lighting does not have a detrimental effect on local ecology or residential amenity and to accord with Policies LP24, LP30, LP32 and LP52 of the Kirklees Local Plan and Policies in Chapters 14 and 15 of the National Planning Policy Framework.

6. No development shall take place until, an invasive non-native species protocol shall be submitted to and approved by the Local Planning Authority, detailing the containment, control and removal of Japanese Knotweed and Himalayan Balsam on site. The development shall be carried out strictly in accordance with the approved scheme. Reason: To remove these species from within the site, as ecological enhancement, and prevent their spread into the wider environment as a result of construction activity, and to ensure the proposal accords with Policies LP24, LP30 and LP32 of the Kirklees Local Plan and Policies in Chapters 12 and 15 of the National Planning Policy Framework. This is pre-commencement to ensure that a protocol can be devised to enable implementation as part of the construction program.

7. Before the development is first brought into use, an ecological design strategy (EDS) addressing mitigation and enhancement for the application site shall be submitted to and approved in writing by the Local Planning Authority. The EDS shall include the following. a) Purpose and conservation objectives for the proposed ecological works. b) Location (shown on appropriate scale plans) of specific make and model, or design, of habitat boxes, such as bat boxes, bird boxes and hedgehog refuges. Habitat boxes to be integral to new structures where appropriate. c) Details of how the design of boundary treatments will not obstruct the movement of hedgehogs. d) Planting schedule and planting plan showing the inclusion of native species of tree and shrub to be included within/at the boundary of the application area, and how this achieves the stated purpose. e) Details of maintenance. The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter. Reason: to ensure the development hereby permitted provides ecological enhancement measures sufficient to provide a biodiversity net gain in accordance with Policies LP24 and LP30 of the Kirklees Local Plan and Policies in Chapter 15 of the National Planning Policy Framework.

An Ecological Design Strategy (ref MBE/ECO/2023/10/01) has been submitted as part of the application. This provides details for parts a, b, c, d and e of condition 7, and details timing for undertaking works. The submitted strategy sets out the purpose and conservation objectives, the design and location of bird boxes, the boundary treatments to the site which in this case would be hedgerow planting and not impede the movement of hedgehogs across the site. A planting schedule and plan forms part of the strategy as well as the maintenance of the planting schedule as well as maintenance of bat

and bird boxes. The submitted strategy aligns with the submitted landscaping plan (ref C02).

In addition, a lighting plan (ref Co7) has been submitted which details the location and type of lighting to be implemented across the site. This plan is in conjunction with a submitted document titled 'External Lighting Details'. This document makes reference to the fact it is to be read in conjunction with drawing C07.

In addition to the strategy, landscaping plan, and lighting plan / details provided. Details in relation to the removal of Himalyan Balsam have been submitted. These set out how it would be removed, by means of chemical control and also that it would be undertaken in accordance with guidance provided by the Centre for Ecology and Hydrology.

KC Ecology have been consulted and in their initial response (dated 23rd May 2023) have advised the information submitted satisfies the requirements of conditions 6 and 7. In relation to condition 5 they requested the submission of further details, specifically the hours of operation of the lighting).

The submitted detail sets out the lighting would be a dusk / dawn luminary which would be in effect when required by users of the site. Given the level of lighting proposed it is considered this would be a suitable arrangement for lighting of the site and notwithstanding the request of KC Ecology it is considered in this case the proposal is acceptable given the detail submitted and lighting levels proposed.

Whilst the KC Ecology response does not mention the landscaping scheme submitted to satisfy condition 8, as this landscaping scheme is incorporated and reflected in the submitted strategy it is considered that it is unnecessary to seek further clarification in relation to the landscaping scheme as they have stated their overall support for the strategy to satisfy condition 7.

Given the response of KC Ecology, and the fact the submitted scheme to remove Himalayan Balsam has been undertaken in April / May, it is considered that removal of condition 6 is appropriate in this case.

In relation to conditions 7 and 8, it is considered that on the basis these conditions are reworded to require the development to be undertaken in accordance with the submitted strategy and submitted drawing C 02 it is considered the development would have an acceptable impact upon ecology and biodiversity of the site in accordance with the aforementioned policies.

Residential Amenity

Policy LP24 of the Kirklees Local Plan and policies within Chapter 12 of the National Planning Policy Framework seeks to ensure development has an acceptable impact upon the amenity of neighbouring occupiers.

Condition 5 of the original consent is detailed in full within the 'Ecology' section of this report. This condition was required to ensure that artificial lighting does not have a detrimental effect on local ecology or residential amenity. A lighting plan (ref Co7) has been submitted which details the location and type of lighting to be implemented across the site. This plan is in conjunction with a submitted document titled 'External Lighting Details'. This document makes reference to the fact it is to be read in conjunction with drawing C07.

One of the reasons for condition 5 is in relation to impact which lighting would have upon residential amenity. KC Environmental Health have been consulted and have stated the lighting details document consists of a number of technical data sheets detailing the types of luminaires which are to be installed, and drawing C07 shows the location of the proposed types of luminaires across the development site. They go on to state that they have no objection to the lighting scheme which has been submitted and detailed within the submitted document / plan, on the basis the development is undertaken with the submitted details.

It is considered that, having regard to the submitted detail and response of KC Environmental Health, the lighting which is proposed would have an acceptable impact upon the residential amenity of neighbouring occupiers.

The revised layout and size / scale of the proposed buildings is not considered to lead to a level of overlooking or development which is unduly oppressive / overbearing or leads to a level of overshadowing that would detrimentally impact upon neighbouring occupiers.

Subject to condition 5 being reworded to require the development is undertaken in accordance with the submitted detail, the proposal is considered to be in accordance with the aforementioned policies.

Review of conditions

In the instance of any grant of approval of a Section 73 application a new consent is issued by the LPA, as such all conditions upon the original consent are required to be reviewed and where necessary re applied or amended. This section sets out a review of all conditions upon the original consent.

Condition 1

This condition requires the development to be begun within 3 years of the date of the decision. As the development has already begun it is not considered necessary for this condition to be included upon any grant of permission.

Condition 2

This condition relates to the plans list against which the application is being considered. It is recommended this condition is amended to refer to drawings

submitted as part of this application and remove reference to drawings upon the original consent which are no longer applicable.

Condition 3

This is discussed in the ‘Highway Safety’ and ‘Visual Amenity’ sections of this report and recommended to be re worded to reflect the details submitted for this condition.

Condition 4

This condition is discussed in the ‘Visual Amenity’ section of this report and recommended to be reworded to reflect the details submitted for this condition.

Condition 5

This is discussed in the ‘Ecology’ and ‘Residential Amenity’ section of this report and is recommended to be reworded to reflect the details submitted for this condition.

Condition 6

This is discussed in the ‘Ecology’ section of this report and is recommended to be removed.

Condition 7

This is discussed in the ‘Ecology’ section of this report and is recommended to be reworded to reflect the details submitted for this condition.

Condition 8

This is discussed in the ‘Ecology’ and ‘Visual Amenity’ section of this report and is recommended to be reworded to reflect the details submitted for this condition.

Condition 9

This is discussed in the ‘Highway Safety’ and ‘Visual Amenity’ sections of this report and is recommended to be reworded to reflect the details submitted for this condition.

Condition 10

This condition is recommended to be re worded to reflect the fact the plans it relates to are drawing C01 RevA and C03. It is recommended this condition is also amended to reflect the fact it should be occupied by someone associated with the operation of the site.

Condition 11

This condition is recommended to be reworded to reflect the fact the document entitled ‘management plan for Camp Marsden’ dated July 2019 and received on 10th January 2020 was submitted as part of application 2019/90988 which was approved on 4th August 2021.

Condition 12

This condition is recommended to be reworded to reflect the fact the Arboricultural Report by JCA Limited Ref: 12679-A/PH was submitted as part of application 2019/90988 which was approved on 4th August 2021.

Condition 13

This condition is recommended to be re worded to reflect the fact the Flood Risk Assessment (FRA) by Haigh Huddleston & Associates dated July 2019, Ref: E19/7480 /FRA001 and drawing 2018-541-03b revised 3/7/2019 was submitted as part of application 2019/90988 which was approved on 4th August 2021.

Condition 14

This condition is recommended to be reworded to reflect the fact plan it relates to is drawing C01RevA.

Conditions 15, 16, 17

It is recommended that these conditions are updated to reflect the fact the Location plan (1:1250@A1) and received on 25th March 2019 was submitted as part of application 2019/90988 which was approved on 4th August 2021.

It is also recommended condition 16 is amended to state ‘up to 5 camper vans’ for clarity.

Condition 18

It is recommended this condition is updated to reflect the fact it now relates to drawing C01revA.

Representations

Insofar as they are not covered elsewhere in this report, the following representations are addressed as follows:-

Objections

- The approved proposal was a campsite but the development the subject of this application is a change of use for self-catering

accommodation which is a change of use outside the scope of this application.

Condition 16 of the original consent (ref: 2019/90988) restricts the use of the site to four camping pods and five camper vans and does not permit tented accommodation on the site. The proposal is considered to be within the scope of the original consent and does not materially alter the development.

- The proposal suggests a full-time warden would not be present upon the site as the warden cabin is called ‘Reception Cabin’ which is not in accordance with the original permission.

This would be controlled by the requirement of condition 10 upon the original consent, which would be re imposed upon any grant of permission.

- Previously seen / heard bats and owls are not sighted any more due to construction works
- Construction and other works have been undertaken in manner which has a detrimental impact upon wildlife.

As this application relates to variation of conditions, the impact of construction works upon wildlife cannot be re visited as part of this application.

- Mature trees have been cut down.

The works to trees are controlled by condition 12 of the original consent which would be re imposed as part of any grant of permission.

- The canal boat on site forms additional accommodation which can be used and did not form part of the approved consent and should be removed.

This is annotated as being temporary for along with a site cabin / store. In an email dated 31st July the planning agent for this application confirms the period of time this would be temporarily in place for is 18 – 24 months.

- Bushcraft for local school children appears to have been dropped from the proposal.
- Noise and disturbance would be intrusive.

As this application relates to variation of conditions which do not control the use of the site / noise, these matters cannot be re visited as part of this application.

- The previous proposal has 72 objections.

This point is noted.

- No electrical charging points are available.

This is controlled by condition 18 of the original consent which would again be included upon any grant of permission.

- The site is in use in breach of conditions of the original permission.
- The council has failed to prevent the deviation from the original permission.

This application has been submitted to regularise non compliance with conditions of the original consent. Any works undertaken which are not in compliance with the original consent has been done so at the applicants own risk.

- The time it will take for hawthorn screening to grow, and the lack of any Warden on site leads to concerns about crime and anti social behaviour occurring.

Condition 10 requires the presence of a warden on the site. As none of the conditions the subject of this application relate to crime / anti social behaviour this matter cannot be revisited as part of this application.

- A fire pit is shown on the plan; however the previous consent did not allow this.

There is not considered to be a clear intention to install fire pits shown on the submitted plans, notwithstanding this point condition 17 of the original consent places a restriction which does not allow for fires within the site.

- The site is being advertised as available to arrive / depart for much extended hours of the day than the permission allows.

There are no hours of arrival / departing the site upon the original consent.

- Would non-compliance of planning permission be tolerated were it undertaken by a local home owner.

Works which need planning permission, and which are undertaken without it first being in place, are done so entirely at the risk of the land owner.

- To ensure there is not excess waste / littering there should be a requirement to provide regularly emptied waste and recycling facilities not just on site but in the adjacent areas guests / visitors are likely to utilise.

Waste management, including off site waste management, is a matter which cannot be revisited as part of the consideration of this application.

Points raised in uppsort

- The site is being positively utilised and developed to be a valuable asset to the area and local economy.

- Attracting others to the area is something which is needed in the locality.
- Look forward to using the facility which provides access to the countryside.
- Always viewed the site as wasteland which attracted fly tipping.
- The proposal will attract tourism to the area who will use local businesses having a beneficial impact to the local economy.
- As a walker / cyclist this is the kind of place look to stay in and provides further options for tourists.

These points relate to factors which relate to the principle of the development and weight to be afforded in favour of the scheme. As the principle of development is not being revisited, given the scale of the development is not considered to have materially changed since the consideration of the original consent, it is not considered necessary to re appraise the impact of the variation of condition n2 inrelation to the principle of the development.

CONCLUSION & RECOMMENDATION

There has been no significant change to the site allocation or national/local planning policy and guidance since the 2021 consent (2019/90988). It is therefore considered that, subject to the wording of conditions being amended, where relevant, to the wording set out in the 'Review of Conditions' section of this report and all informative notes imposed on the 2021 consent (2019/90988) being re-imposed on this Section 73 application the proposal is acceptable.

It is therefore concluded that the variations to the approved plans proposed under this Section 73 application are acceptable and do not alter the conclusions reached and the recommendation made for application 2019/90988.

Approval is recommended.

Recommendation: Approve Removal / Variation of Conditions

Decision Authorisation: Delegated Powers

Application Number: 2023/91126

Officer Recommendation: Approval of Removal / Variation of conditions.

Conditions

1. 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 in

the interests of the protection of the openness and character of the Green Belt and Local Ecology, and to accord with Policy LP24 of the Kirklees Local Plan and Policies in the National Planning Policy Framework.

2. The development hereby approved shall not be brought into use until the widened access to the application site has been completed in accordance with the details set out within submitted drawing ref: C08RevA and email dated 17th July 2023.
Reason: In the interests of highway safety and to ensure that structures required to form the widened access are of an acceptable standard and in the interests of visual amenity and the character and appearance of the Green Belt. To accord with the requirements of Policies LP21 and LP24 of the Kirklees Local Plan and Policies in Chapters 12 and 13 of the National Planning Policy Framework.

3. The development shall not be brought into use until the finished floor levels of each cabin/pod together with corresponding finished ground levels have been completed in accordance with drawing C09 which shall be thereafter retained.
Reason: To ensure the development is in keeping with character of the local area and to protect the openness of the Green Belt and to accord with the requirements of Policy LP24 of the Kirklees Local Plan and Policies in the National Planning Policy Framework.

4. The development shall not be brought into use until external lighting has been installed in accordance with the submitted lighting plan (ref: Co7) and submitted document titled 'External Lighting Details'. All external lighting at site shall be retained in accordance with the details approved by this condition with no other external lighting shall be installed within the site.
Reason: To ensure that inappropriate artificial lighting does not have a detrimental effect on local ecology or residential amenity and to accord with Policies LP24, LP30, LP32 and LP52 of the Kirklees Local Plan and policies in Chapters 14 and 15 of the National Planning Policy Framework.

5. The development shall be undertaken in accordance with the submitted Ecological Design Strategy (ref: MBE/ECO/2023/10/01) and shall not be brought into use until the works included in this strategy has been implemented. The works of the strategy approved by this condition shall be thereafter retained.
Reason: to ensure the development hereby permitted provides ecological enhancement measures sufficient to provide a biodiversity net gain in accordance with Policies LP24 LP30 of the Kirklees Local Plan and Policies in Chapter 15 of the National Planning Policy Framework.

6. In the first planting season following the first occupation of the development hedge planting throughout the site shall be completed in accordance with the details set out within submitted drawing ref: C02. Any plants which within a period of five years are removed or are noticeably damaged or diseased, or have failed to establish or make reasonable growth, shall be replaced in the next planting season with others of the same size and species, unless the

Local Planning Authority give written approval of a variation of the first planting.
Reason: In the interests of the visual amenity of the site, to enhance local ecology and the character and openness of the Green Belt in accordance with Policies LP24 and LP30 of the Kirklees Local Plan and Policies in Chapter 15 of the National Planning Policy Framework.

7. The camper van plots and parking spaces shall not be brought into use until they have been surfaced in accordance with the submitted Document titled 'Porus Paving Details' dated April 2023 and drawing ref: C02 which shall be retained thereafter.
Reason: In the interests of highway safety and to ensure that the surfaces are appropriately surfaced and drained and to accord with Policy LP21 of the Kirklees Local Plan.

8. Before the hereby approved development is first brought into use the warden's accommodation as detailed on drawing ref: C01 RevA and C03 shall be provided. Thereafter the site shall only operate when the warden's accommodation is occupied by person(s) associated in the operation of the site.
Reason: In the interests of the proper management of the site and to protect the amenity of local residents and reduce the potential for anti social behaviour or instances of crime to occur and to accord with Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

9. The hereby approved development shall be carried out in accordance with the hereby approved document entitled 'management plan for Camp Marsden' dated July 2019 and received on 10th January 2020 submitted as part of application 2019/90988 which was approved on 4th August 2021.
Reason: In the interests of the protection of residential amenity and to accord with Policies LP24 and LP52 of the Kirklees Local Plan and Policies in Chapter 12 and LP15 of the National Policy Framework.

10. The hereby approved development shall be carried out in accordance with recommendations and requirements of Chapter 5 of the hereby approved Arboricultural Report by JCA Limited Ref: 12679-A/PH submitted as part of application 2019/90988 which was approved on 4th August 2021.
Reason: In the interests of the protection of trees at the site and the protection of local ecology and to accord with Policies LP30 and LP33 of the Kirklees Local Plan and Policies in Chapter 15 of the National Planning Policy Framework.

11. The hereby approved development shall be carried out in accordance with the submitted Flood Risk Assessment (FRA) by Haigh Huddleston & Associates dated July 2019, ref: E19/7480 /FRA001 and drawing ref: 2018-541-03b revised 3rd July 2019, submitted as part of application 2019/90988 which was approved on 4th August 2021, and the following mitigation measures it details:

- Finished floor levels 300mm above site levels as per the FRA;

- All Pods a minimum of 16m from the River Colne Main River and 6m from the bank top of the River Colne as per the FRA; and
- All camping pods to be located in the flood zone 1 areas of the site as per the FRA.

These mitigation measures shall be fully implemented prior to development first being brought into use and retained thereafter.
Reason: To reduce the risk of flooding to the proposed development and future users of the cabins and pods and to accord with Policy LP27 of the Kirklees Local Plan and Policies in Chapter 14 of the National Planning Policy Framework.

12. The passing places to serve the access track to the parking area of the hereby approved development as set out on drawing ref: C01RevA shall be provided before the hereby approved use first commences, these areas shall be surfaced and drained in accordance the Communities and Local Government; and Environment Agencies 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or any successor guidance; and retained thereafter.
Reason: In the interests of the safe and free operation of the access track and to protect highway safety and to accord with Policy LP21 of the Kirklees Local Plan.

13. The hereby approved development only permits the use of the site outlined in red on the hereby approved plan entitled 'Location plan (1:1250 @ A1) and received on 25th March 2019, submitted as part of application 2019/90988 which was approved on 4th August 2021, by camper vans which are up to a maximum of 3.5 tonnes in weight.
Reason: For the avoidance of doubt as to what is being permitted, to ensure that the development accords with the information submitted in support of the application and in the interests of highway safety due to the nature of the access to the site and to accord with Policy LP21 of the Kirklees Local Plan.

14. The hereby approved development only permits the use of the site outlined in red on the hereby approved plan entitled 'Location plan (1:1250 @ A1) and received on 25th March 2019, submitted as part of application 2019/90988 which was approved on 4th August 2021, for overnight accommodation by up to five camper vans and four camping pods at any one time. There shall be no tented accommodation provided at any time.
Reason: For the avoidance of doubt as to what is being permitted, to ensure that the development accords with the information submitted in support of the application and in the interests of protection of residential amenity and highway safety and to accord with Policies LP21, LP22, LP24 and LP52 of the Kirklees Local Plan and Policies in Chapter 12 of the National Planning Policy Framework.

15. There shall be no fires lit in the site outlined in red on the hereby approved plan entitled 'Location plan (1:1250 @ A1) and received on 25th March 2019, submitted as part of application 2019/90988 which was approved on 4th August 2021, at any time.

Reason: In the interests of residential amenity and the protection of local ecology and to accord with Policies LP24, LP30 and LP52 and to accord with Chapters 12 and 15 of the National Planning Policy Framework.

16. Before the hereby approved development is first brought into use the two electric vehicle recharging points as indicated on drawing ref: C01RevA shall be installed and brought into use. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32 Amps. The electric vehicle charging point so installed shall thereafter be retained.
Reason: in the interest of promoting sustainable transport and to accord Chapter 9 and Chapter 14 of the National Planning Policy Framework and Policy LP24 of the Kirklees Local Plan.

NOTE: The applicant is advised to contact the Canal and River Trust Prior to work commencing to ensure that all necessary consents are obtained before work commences and that the work is carried out in accordance with the "Code of Practice for Works affecting Canal and River Trust", they can be contacted on 0113 284 5211 or 0303 040 4040.

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

- 07.30 and 18.30 hours Mondays to Fridays
- 08.00 and 13.00hours, Saturdays

With no working Sundays or Public Holidays.

In some cases, different site-specific hours of operation may be appropriate.

Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which work may be carried out.

Plans and specifications schedule:-

Plan Type	**Reference**	**Version**	**Date Received**
Section drawing	C08RevA		5th June 2023
Proposed Amended Layout	C01RevA		24th April 2023
Email dated 17th July			17th July 2023
Email dated 31st July 2023			31st July 2023
Application Form			24th April 2023
Landscape Plan'	C02		24th April 2023
Location Plan	C10		24th April 2023
Floor Levels	C09		24th April 2023
External Lighting plan	C07		24th April 2023

Plan Type	Reference	Version	Date Received
WC / Shower Block	C06		24th April 2023
Family Cabins Units 3, 4 & 5	C05		24th April 2023
Single Cabin unit 2	C04		24th April 2023
Wardens Cabin unit 1	C03		24th April 2023
Ecological Design Strategy	MBE/ECO/2023/10/01		24th April 2023
Document titled 'Porus Paving Details'			24th April 2023
Document titled 'Removal of Himalyan Balsam			24th April 2023
Document titled 'External Lighting Details'			24th April 2023
Supporting Statement			24th April 2023
Plan Type received as part of application 2019/90988	**Reference**	**Version**	**Date Received**
Location Plan (1:1250 @ A1)	-	-	25th March 2019
Topographical Survey	ML 01	-	25th March 2019
Details of Connection to Sewer for Toilets	-	-	15th January 2020
Supporting Statement	-	-	11th May 2020
Minutes of meeting between residents and SB Homes 9/3/2020	-	-	17th March 2020
Copy of letter to planning officer and residents with regards to amendments	-	-	20th February 2020
Management plan for Camp Marsden	-	-	20th January 2020
Ecology Statement	17th December 2019	-	20th December 2020
Ecological Impact Assessment	MBE/ECO/2019/24/02	-	10th October 2019
Technical Highways Note	July 2019 Project - 1640	-	19th July 2019
Slope Stability Calculations	E18/7480/MH/PW/001	-	19th July 2019
Flood Risk Assessment	E19/7480 /FRA001	-	19th July 2019
Tree Constraints Plan	12679-A/PH	-	15th May 2019
Arboricultural Report	12679-A/PH	-	15th May 2019
Design and Access	-	-	25th March 2019

Plan Type	Reference	Version	Date Received
Statement			
Preliminary Ecological Site Appraisal	1st February 2016 MiddEcoCon/ Doc/24/02/16	-	25th March 2019

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. Further detail was sought and provided in relation to the access / retaining structures of the site and artificial lighting.