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:	**2023/62/91480/E**
Site Address:	Whistlestop Valley, Park Mill Way, Clayton West, Huddersfield, HD8 9XJ
Description:	Erection of semi-permanent multi-use structure
Recommending Officer:	Emma Thompson

DECISION – Full Conditional 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.

Kirsty Nicholls

AUTHORISED OFFICER

Date: 22-APR-2025

Officer Report

Site Description

The application relates to the Kirklees Light Railway Station site in Clayton West, known as the Whistle Stop Valley located on Park Mill Way.

The site currently comprises of existing buildings directly associated with the business including café and kitchen, shop, office and toilets. Within the site is a large, elongated metal sheet building, playground areas, mobile cabin building, covered 'trampoline pillow' and areas of hardstanding providing walkways through the site and picnic areas.

Access to the site is via Park Mill Way to a large, unmarked car parking area.

The site is bound by residential properties to the east, commercial units to the south and west with the railway line to the north.

Description of Proposal

Planning permission is sought for the erection of a semi-permanent multi use structure. Whilst described as a 'structure' the development is a large steel building with relatively sized windows in the side elevations and double doors to each end.

The purpose is to provide accommodation (162sqm) to facilitate a flexible use such as sheltering from the weather, include table and chairs for refreshments or education for visitors to the site.

Materials are stated as painted steel cladding.

There will be no increase to employee numbers as a result of the development.

History of negotiations/amendments received

Further information was submitted to address concerns regarding coal mining legacy.

Relevant Planning History

2022/90435 – Installation of crazy golf and pedal car track - Approved
2021/94155 – Erection of canopy - Approved
2016/93538 – Formation of pitched roof, erection of glazed canopy and glazed entrance screen and alterations to main entrance - Approved
2006/90584 - Erection of extensions and balconies/canopies to visitors building – Approved
89/02481 - Use of land for industrial development, construction of miniature railway and associated facilities/access road/refurb of former railway buildings in association with miniature railway – Approved

Representations

3 responses have been received one in objection and two supporting summarised below:

Objection:

- Size of the building will result in noise from people, trains
- Traffic & highway safety
- Pollution
- No display of planning notice
- No valid order to operate trains
- Damage to railway bridge
- Mounting advertising banners for events without permission

Support:
Good addition to the railway/attraction
Great advancement for the business
Should support local attractions

Denby Dale Parish Council: no objections

Consultation Responses

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

The Coal Authority (now The Mining Remediation Authority): No objection subject to conditions
KC Highways: No objection subject to conditions
KC Environmental Health: No objections subject to conditions
KC Designing out crime: No objections (recommendations passed on to the agent)

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 unallocated on the Kirklees Local Plan Proposals Map.
Kirklees Local Plan (LP):

LP 1 – Achieving Sustainable Development
LP 2 – Place Shaping
LP 3 – Location of New Development
LP 20 – Sustainable Travel
LP 21 – Highway Safety

LP 22 – Parking Provision
LP 24 – Design
LP 28 – Drainage
LP 30 – Biodiversity and Geodiversity
LP47 – Healthy, active and safe lifestyles
LP48 – Community facilities and services
LP 51 – Protection and Improvement of Local Air Quality
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 December 2024, 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 2 – Achieving Sustainable Development
Chapter 8 – Promoting Health and Safe Communities
Chapter 9 – Promoting Sustainable Transport
Chapter 11 – Making Efficient Use of Land
Chapter 12 – Achieving Well-Designed Places
Chapter 14 – Meeting the Challenge of Climate Change, Coastal Change and Flooding
Chapter 15 – Conserving and Enhancing the Natural Environment

Other Material Considerations:

Kirklees Highways Design Guide SPD (2019).
Waste Management Design Guide for New Developments (Version 5, October 2020).
Kirklees Biodiversity Net Gain Technical Advice Note (2021).

Assessment

The following matters are considered in the assessment below –
Principle of development
Impact on visual amenity
Impact on residential amenity
Impact on highway safety
Other matters
Representations
Conclusion

1 – Principle of development:

Chapter 2 of the NPPF introduces the presumption in favour of sustainable development, which is the focus of policy LP1 of the Kirklees Local Plan. This policy stipulates that proposals that accord with policies in the Local Plan will be approved without delay, unless material considerations indicate otherwise. Policy LP24 of the KLP is the overarching policy in relation to the design of all proposals, requiring them to respect the appearance and character of the existing development in the surrounding area as well as to protect the amenity of the future and neighbouring occupiers, to promote highway safety and sustainability. These considerations, along with others, are addressed in the following sections in this report.

The site proposed for the erection of the building is located within the existing Whistlestop Valley attraction. The leisure/tourist operations include the light railway, crazy golf, pedal car track along with a playground and eatery. The new building will complement these ongoing operations being erected within the site, utilising the existing access and parking facilities. The addition of the building will improve the facilities offered on the site by providing sheltered accommodation for use alongside the existing uses contributing positively to tourism and leisure for the local and wider community in accordance with Policy LP47 and LP48 of the Local Plan.

As the site is nestled adjacent to existing commercial activities as well as residential properties material considerations including impact on visual amenity, adjoining occupants and highway safety shall be assessed below.

2 – Impact on visual amenity

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby 131 provides a principal consideration concerning design which states:

"The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."

Kirklees Local Plan policies LP1, LP2 and significantly LP24 all also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity.

LP24 states that proposals should promote good design by ensuring:

"a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape…"

Paragraph 131 of the NPPF sets out that design guides and codes carry weight in decision making. Of note, Paragraph 139 of the NPPF states that development that is not well designed should be refused, especially where it

fails to reflect local design policies and government guidance on design, taking into account any local design guidance.

The details submitted show the building located to the north of the site adjacent to the existing track. The existing engine shed is to be removed to facilitate the development. Whilst the size of the replacement building is greater than the existing shed, it would not appear out of character with the wider area. Land to the west is characterised by large industrial buildings with some smaller units within the existing facility, as such the proposed development will not be at odds with its surroundings.

The site can comfortably accommodate the building and due to its design and materials would not be out of keeping with the general industrial/commercial character of the site. The existing bank of trees to the north will provide screening and buffer to the residential properties mitigating any visual impact from this point.

Due to the location, scale and design, the development is considered acceptable in terms of visual amenity and in terms of its impact on the character of the area and would accord with policy LP24 of the KLP and chapter 12 of the NPPF.

3 – Impact on Residential Amenity

The site is located within the existing Whistlestop Valley site with residential development to the north and east. The proposed building is larger and of different construction to the shed it replaces and requires an assessment in terms of any potential impact on sensitive noise receptors. The potential impacts arising from development leading to an impact on health are capable of being a material planning consideration.

Policy LP24 requires that application be assessed taking into account the amenity of existing and future occupants. Policy LP52 states that “proposals which have the potential to increase pollution from noise must be accompanied by evidence to show that the impacts have been evaluated, and measures have been incorporated to prevent or reduce the pollution so as to ensure it does not reduce the quality of life and wellbeing of people to an unacceptable level or have unacceptable impacts on the environment”.

Proposals that have the potential to cause pollution when functioning need to assessed and appropriate mitigation secured. Paragraph 130 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

Due to the location and proposed flexible uses associated with the premises it is possible that noise emanating from the site could result in some degree of harm for nearby residents. It is acknowledged that the entire site is currently a tourist attraction and as such there are currently numerous activities that take place already that are noise generators. By intensifying development within the site, consideration should be given to any impact on nearby noise

sensitive premises particularly residential accommodation to the east. As such, the application has been referred to Environmental Health officers for comment.

There are residential properties which border the wider site and as such it is necessary to control the impact of the development through a condition to limit the hours of use in order to prevent a loss of amenity to the occupiers of the nearest residential properties. A recommendation is made to mirror the opening hours of the Kirklees Light Railway/Whistlestop Valley with a restriction on the maximum permissible hours. The condition to restrict hours to between 9:30 and 17:30 has been discussed and agreed with the agent.

The Council's Environmental Health Officer has requested that construction site working times are conditioned. Construction practices are covered by other regulations, and it is not considered necessary or reasonable to attach a condition regarding site working times, however an informative regarding construction practices can be attached instead if permission is granted.

4 – Highway Safety

The proposal would be contained within the bounds of the existing Whistle Stop site replacing an existing shed with a larger building to accommodate a mixture of uses.

It is assumed that servicing and delivery arrangements would remain as per the existing.

There is a large hard surfaced car park which provides ample parking associated with the existing site operations.

This area is available for the sole use of the Light Railway in perpetuity, however as the car park is not formally lined and is, in part, in a state of disrepair, this should be surface and lined as part of any approval. A condition is recommended to be imposed in this respect.

5 – Other

Land contamination:
The site of the proposed development is shown as being potentially contaminated from its former use (our site reference 19/18) and may have an adverse impact on the proposed development, therefore contaminated land conditions are necessary.

The undertaking of site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 196 and 198 of

the National Planning Policy Framework. The agent has confirmed agreement to the conditions.

Coal Mining Legacy
The Coal Authority (now The Mining Remediation Authority) has been consulted on the application as the application site falls within the defined Development High Risk Area. Therefore, within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.

The Coal Authority (now The Mining Remediation Authority) previously raised an objection to this application in a letter dated 21st August 2024 as no site-specific Coal Mining Risk Assessment was submitted by the applicant to support the application. The application is now accompanied by a Mining Risk Assessment report (S12656-JNP-XX-XX-RP-G-1001 CMRA) prepared by JNP Group Consulting Engineers, dated September 2024. The report has been based upon a review of coal mining and geological information and concludes that unrecorded underground coal mine workings at shallow depth may be present beneath the site.

The report makes recommendations for ground investigations to be carried out on the site in order to establish the extent of any shallow mine workings and to inform any remedial works and mitigation measures needed to ensure the site is safe and stable. The intrusive site investigations should be designed and undertaken by competent persons and should be appropriate to assess the ground conditions on the site in order to establish the coal-mining legacy present and the risks it may pose to the development and inform any remedial works and/or mitigation measures that may be necessary.

The Planning Team at the Coal Authority (now The Mining Remediation Authority) concurs with the conclusions of the Mining Risk Assessment report; that coal mining legacy potentially poses a risk to the proposed development and that investigations are required, along with possible remedial measures, in order to ensure the safety and stability of the proposed development. Pre-commencement conditions are recommended to be imposed in the event that planning permission be approved to ensure further investigations as well as remedial works are carried out.

The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 196-198 of the National Planning Policy Framework. The agent has confirmed the conditions are accepted.

6 – Representations

3 responses have been received to advertisement one in objection and two supporting summarised below:

Objection:

- Size of the building will result in noise from people, trains
  Officer Response: Environmental Health raise no objection and a condition limiting hours of use is recommended to be imposed to ensure amenity is protected.

- Traffic & highway safety
  Officer Response: No objections have been received from KC Highway DM and the works ancillary accommodation which is not considered to result in any detriment to highway safety. Adequate parking exits.

- Pollution
  Officer Response: The development is of a scale that will not result in pollution.

- No display of planning notice
  Officer Response: The application was advertised in accordance with the site publicity procedures set out in the Council's Development Management Charter.

- No valid order to operate trains
  Officer Response: This matter is not material to the determination of the application.

- Damage to railway bridge
  Officer Response: This is not material to the determination of the application.

- Mounting advertising banners for events without permission
  Officer Response: Advertisement consent may be required for the display of adverts. However, this is not material to the determination of this application and would be subject to further assessment should they require consent.

Support:
Good addition to the railway/attraction
Great advancement for the business
Should support local attractions
Officer Response: Noted

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 APPROVE

Application Number: 2023/91480
Officer Recommendation: APPROVE
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, and to accord with Policies LP1, LP21, LP22, LP24, LP51, LP52 and LP53 of the Kirklees Local Plan and the National Planning Policy Framework.

3. The use of the development hereby permitted shall not be open to customers outside the hours of: 0930 hrs to 1730hrs Monday to Sunday.
Reason: To ensure that the proposed uses 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 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

4. Groundworks shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.
Reason: This is a pre-commencement condition to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 196, 197 and 198 of the National Planning Policy Framework.

5. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition (4) groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.
Reason: This is a pre-commencement condition to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local

Plan and paragraph nos. 196, 197 and 198 of the National Planning Policy Framework.

6. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition (5) further groundworks shall not commence until a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. **Reason**: This is a pre-commencement condition to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 196, 197 and 198 of the National Planning Policy Framework.

7. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition (6). If 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. 196, 197 and 198 of the National Planning Policy Framework.

8. 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 site shall be brought into use until such time as the remediation measures have been completed for (that part of) 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. 196, 197 and 198 of the National Planning Policy Framework.

9. No development shall commence until (excluding demolition of existing structures and site clearance); a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.
Reason: This is a pre-commencement condition to ensure investigation and remediation in respect of coal mining activity are completed in order to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 196, 197 and 198 of the National Planning Policy Framework.

10. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.
Reason: To ensure investigation and remediation in respect of coal mining activity are completed in order to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 196, 197 and 198 of the National Planning Policy Framework.

11. The development hereby approved shall not be brought into use until the parking areas are lined and laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing (parking areas)' published 13th May 2009 as amended or any successor guidance. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order) these areas shall be so retained, free of obstructions and available for parking thereafter.
Reason: In the interests of traffic safety, to mitigate flood risk arising from surface water run-off, to ensure adequate space within the site for vehicle movements and parking and to comply with Policies LP24 and LP28 of the Kirklees Local Plan and Chapters 9 and 12 of National Planning Policy Framework.

NOTE:
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.

The conditions relate to Planning Control only. Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information. Any other necessary consent must be obtained from the appropriate authority. If the applicant commences

work without discharging conditions, they will be at risk of enforcement action and invalidating the permission if the planning condition is a pre commencement condition.

NOTE: Ground Investigations
Under the Coal Industry Act 1994 any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority since these activities can have serious public health and safety implications. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes.
Failure to obtain permission to enter or disturb our property will result in the potential
for court action. Application forms for Coal Authority permission and further guidance
can be obtained from The Coal Authority's website at: www.gov.uk/get-a-permit-to-dealwith-a-coal-mine-on-your-property

NOTE: Shallow coal seams
In areas where shallow coal seams are present caution should be taken when carrying out any on site burning or heat focused activities.

NOTE: Requirement for Incidental Coal Agreements
If any future development has the potential to encounter coal seams which require
excavating, for example excavation of building foundations, service trenches, development platforms, earthworks, non-coal mineral operations, an Incidental Coal
Agreement will be required from the Coal Authority. Further information regarding
Incidental Coal Agreements can be found here -
https://www.gov.uk/government/publications/incidental-coal-agreement/guidancenotes-for-applicants-for-incidental-coal-agreements

NOTE:
Noisy construction related activities shall not take place outside the hours of -
0730hrs to 1830hrs Mondays to Fridays
0800 to 1300hrs Saturdays
With no noisy activities on Sundays or Public Holidays

NOTE:
Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur. Failure to comply with a notice

served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location Plan	300 LOC	REV A	16/01/2024
Existing Site Plan	(300) 01		19/05/2023
Proposed Plans and Elevations	(300) 02		19/05/2023
Coal Mining Risk Assessment			7/10/2024
Coal Mining Risk Assessment	B21462/CMRA		8/08/2024

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. In this instance, the application required further information regarding the works and land contamination and coal mining legacy.