

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:	2023/62/92389/E
Site Address:	Connection Seating Ltd, Dogley Mills, Penistone Road, Fenay Bridge, Huddersfield, HD8 0LE
Description:	Change of use of workshop and storage area to warehouse for fireworks and retail
Recommending Officer:	Elenya Jackson

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.

Sarah Longbottom

AUTHORISED OFFICER

Date: 24 October 2023

OFFICER REPORT

Site Description

Connection Seating Ltd, Dogley Mills, Penistone Road, Fenay Bridge, Huddersfield, HD8 0LE a predominantly stone built mixed use commercial unit which is situated to the western side of Penistone Road.

The property benefits from hard surfacing to the side which allows for parking for several vehicles and manually controlled electric fencing .

The site is 174 m south of a PEA.

Description of Proposal

The applicant is seeking permission to change to use of one of the existing units to a storage facility and retail space associated with fireworks.

The proposed hours of use are expected to be:

DAY	DATE	HOURS
WEDNESDAY	25/10/2023	10AM - 6PM
THURSDAY	26/10/2023	10AM - 6PM
FRIDAY	27/10/2023	10AM - 6PM
SATURDAY	28/10/2023	10AM - 6PM
SUNDAY	29/10/2023	10AM - 4PM
MONDAY	30/10/2023	10AM - 8PM
TUESDAY	31/10/2023	10AM - 8PM
WEDNESDAY	01/11/2023	10AM - 8PM
THURSDAY	02/11/2023	10AM - 8PM
FRIDAY	03/11/2023	10AM - 8PM
SATURDAY	04/11/2023	10AM - 7PM
SUNDAY	05/11/2023	10AM - 4PM

	<u>New Year</u>	
SATURDAY	30/12/2023	10AM - 6PM

This is in line with HSE guidance on the distribution of fireworks.

Officers contacted the agent to confirm how the fireworks would be stored and it was confirmed that the fireworks would be stored securely on site.

The agent has confirmed that a condition on the items sold at the retail unit would be acceptable within their design and access statement.

Relevant Planning History

2000/90638: CHANGE OF USE FROM STORAGE AND DISTRIBUTION TO ASSEMBLY AND MANUFACTURE OF OFFICE CHAIRS AND SOFAS WITH ASSOCIATED OFFICES. Conditional full permission

2001/91392: ERECTION OF DESPATCH DEPARTMENT EXTENSION. Conditional full permission

2004/94664: ERECTION OF OPEN LOADING BAY. Conditional full permission

2006/92301: RENEWAL OF UNIMPLEMENTED PERMISSION FOR ERECTION OF DISPATCH DEPARTMENT EXTENSION. Withdrawn

2006/93151: RENEWAL OF UNIMPLEMENTED PERMISSION FOR ERECTION OF DISPATCH DEPARTMENT EXTENSION. Conditional full permission

2015/93261: DEMOLITION OF EXISTING BUILDINGS AND OUTLINE APPLICATION FOR ERECTION OF RESIDENTIAL DEVELOPMENT (14 DWELLINGS). Section 106 Outline Permission

2018/90714: MODIFICATION OF SECTION 106 OBLIGATION RELATING TO PREVIOUS PERMISSION 2015/93261 FOR DEMOLITION OF EXISTING BUILDINGS AND OUTLINE APPLICATION FOR ERECTION OF RESIDENTIAL DEVELOPMENT (14 DWELLINGS). Refused

2022/92325: ERECTION OF INDUSTRIAL STORAGE UNIT. Withdrawn

Representations

The application was advertised by neighbour letters which expired on 4/10/2023

Two objections were received in response to publicity which raised the following concerns:

- The storage of explosives close to residential properties
- The impact of the proposal on the Highway Network

Consultation Responses

KC Highways DM: No objections however conditions requested.

KC Environmental Health: No objections subject to conditions

Crime Prevention: Conditions requested

West Yorkshire Fire and Rescue: No objections

The Environment Agency: No comments

Kirkburton Parish Council: No Comment

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 located within the Green Belt on the Kirklees Local Plan Proposals Map

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

Kirklees Local Plan Policies

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP13** – Town Centre uses
- **LP 14** - Shopping Frontages
- **LP 21** – Highway safety and access
- **LP 22** – Parking
- **LP 24** - Design
- **LP 51** – Protection and improvement of local air quality
- **LP52** – Protection and Improvement of Environmental Quality
- **LP 60** – Re-use and conversion of buildings in the Green Belt

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, and 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 7 – Ensuring the vitality of Town Centres

- Chapter 12 – Achieving well-designed places
- Chapter 13 - Protecting Green Belt land
- Chapter 14 – Meeting the challenge of climate, flooding and coastal change

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 1) Impact on visual amenity
- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Other matters
- 5) Representations
- 6) Negotiations
- 7) Conditions
- 8) Conclusion

1 – Principle of development:

Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. This policy stipulates proposals that accord with policies in the KLP 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.

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The proposal is to change the use of a workshop and storage area to a warehouse for storage and a retail unit. As one of the uses would be retained as a storage facility, the proposal would be introducing a E(a) use class into the unit.

The Use Classes Order has been updated in 2021, the updated Use Classes Order now includes class E, specifically iii which covers “any other service which it is appropriate to provide in a commercial, business or service locality.”

Therefore, of particular relevance to this proposal would be LP13 of the Kirklees Local Plan which states, in brief, that local centre uses should remain to predominantly provide top-up shopping and local services. This policy also requires that proposals that have a significant adverse impact on the vitality and viability of a centre or compromise the role and function of a centre will not be supported.

The site is located in the Green Belt in the Kirklees Local Plan and as such Policy LP 60 would be relevant which relates to the re-use and adaptation of buildings. The application building is of substantial and permanent construction and the proposals would not involve any external alterations. As such, the principle of the change of use is considered acceptable from a Green Belt perspective.

A retail unit would be considered a main town centre use; however, it is considered that due to the limited time frame associated with the retail of fireworks (13 days a year) the unit would remain empty for the remainder of the year and therefore would not contribute positively to the vitality of a town centre or service a local centre appropriately. As LP13 requires a proposal to be appropriate use and scale for the centre, it would be discordant to the aims of LP13 to approve a retail unit associated with fireworks in a local centre or town centre.

In addition, the proposal does not feature any advertisement consents and therefore would not be creating a traditional shopping experience.

Therefore, as the proposal would have a limited operating period and would not provide goods considered ‘usual’ within a town centre or local centre, the proposal is considered to be acceptable when considered against LP13 of the Kirklees Local Plan.

2 –Impact on visual amenity

Policy LP24 of the Kirklees Local Plan, consistent with chapter 12 of the NPPF, states that the form, scale, layout and details of all development respects and enhances the character of the townscape.

With respect to the general design advice contained within Chapter 12 of the NPPF, it is stated that in determining applications, great weight should be given to outstanding or innovative designs which promote high levels of sustainability or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

In this case, officers consider that the works would all be internal as no advertisement consent has been received at this time.

Therefore, having taken into account the above, it has been considered that the proposal would be of a satisfactory design quality and would be in keeping with the wider street scene. As such, the proposal would accord with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the NPPF.

3 – Impact on residential amenity:

Policy LP24 of the Kirklees Local Plan requires a good standard of amenity for future occupants and neighbouring occupiers, as well as a minimising of the impact on residential amenity of future and neighbouring occupiers.

Policy LP51 of the Kirklees Local Plan states that development will be expected to demonstrate that it is not likely to result, directly or indirectly, in an increase in air pollution which would have an unacceptable impact on the natural and built environment or to people.

The property has not proposed any external alterations to convert the unit into a warehouse and retail unit.

The closest properties to the dwelling would be no 14 Penistone Road which is situated 18m east of the unit and 4-12 Penistone Road which are located 35m north of the unit.

Due to the proposal not including any external alterations, and limited operating period proposed, it is considered that there would be no significant impacts regarding overlooking, overshadowing/loss of light/overbearing.

It is acknowledged that the proposal has the potential to intensify the use of the site; however, it is considered that as this would only be operational for 13 days out of the year, it is considered no significant impacts would arise regarding noise and disturbance to neighbouring residents.

Policy LP52 of the Kirklees Local Plan states that proposals which have the potential to increase pollution from noise, vibration, light, dust, odour, shadow flicker, chemicals and other forms of pollution which cannot incorporate suitable and sustainable mitigation measures which reduce pollution levels to an acceptable level to protect the quality of life and well-being of people or protect the environment will not be permitted.

Therefore, the proposal would accord with Policies LP24 and LP51 of the Kirklees Local Plan.

4 – Impact on highway safety:

KC Highways DM have been consulted as part of this application as the proposal has the potential to intensify the current use of the site.

KC Highways have not raised any objections however, it is considered reasonable to condition the retail unit in terms of opening hours and products

sold as the proposal has been considered acceptable on these specific grounds.

As such, subject to conditions, the scheme would not represent any additional harm in terms of highway safety and as such complies with Policy LP22 of the Kirklees Local Plan.

5– Other matters:

Carbon Budget

The proposal is a small scale development. As such, no special measures were required in terms of the planning application with regards to carbon emissions. However, there are controls in terms of Building Regulations which will need to be adhered to as part of the construction process which will require compliance with national standards.

The proposal is for a material change of use of an existing unit. Further conditions attendant to the climate change agenda are on balance not considered necessary in this instance in light of the six tests of planning conditions set out in National Planning Practice Guidance (NPPG).

Crime Prevention

Section 17 of the Crime and Disorder Act 1998 places a duty on each local authority to *“do all that it reasonably can to prevent crime and disorder in its area”*. Chapter 8 (‘Promoting healthy and safe communities’) of the National Planning Policy Framework states at paragraph 92 that there should be an aim to achieve healthy, inclusive and safe places which: (b) are safe and accessible so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.

Policy LP16(c) of the Kirklees Local Plan sets out that the potential for antisocial behaviour to arise from the development, having regard to the effectiveness of available measures to manage potential harm needs to be considered as part of any proposal.

Policy LP24 sets out that proposals should promote good design by ensuring the risk of crime is minimised by enhanced security, and the promotion of well-defined routes, overlooked streets and places, high levels of activity, and well-designed security features.

Paragraph 92 (b) of Chapter 8 of the NPPF, ‘Promoting Healthy and Safe Communities’, sets out that planning policies and decisions should aim to achieve healthy, inclusive and safe places which: *“are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion...”*

Upon consultation, West Yorkshire Police recommended that features of secure design be installed within the premises, this includes: cctv, alarms,

gates and external lighting. These matters can be considered by the applicant should permission be granted.

Flood Risk:

The Environment Agency has been consulted on the application and has not submitted any objections; however, they have provided the following comments for the applicant:

The Woodsome Beck is designated as a 'main river'. The Environmental Permitting

(England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river
- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission

Bats

The site is located within a Bat Alert layer on the Council's GIS system. Due to the proposal being for a change of use with no external alterations, a preliminary bat assessment has not been requested. However, a note will be added

6 – Representations:

Two objections were submitted which raised the following concerns:

- The storage of explosives close to residential properties
- Concerns regarding impact to the Highway Network

Officer Response: As the unit has an existing use class of a warehouse and a workshop. Officers have been unable to locate a previous condition restricting the materials which are stored on site and therefore fireworks could be stored without planning permission.

KC Highways DM have been consulted on this application and have not raised any objections. However, it has been considered necessary that a condition is added to the application to ensure the product catalogue of the retail unit does not expand to mitigate impact on the highway network.

7 – Negotiations:

No further negotiations required.

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: [2023/92389](#)

Officer Recommendation: Approve

Conditions and Reasons

1. The permission hereby granted shall be valid until 23rd October 2028; on expiry of this period the use hereby approved shall cease unless otherwise agreed in writing with the Local Planning Authority following a formal written application.

Reason: The use includes a retail element which would not be acceptable on a permanent basis outside of the town centre, in accordance with Policy LP13 of the Kirklees Local Plan.

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 LP 21, LP22 and LP 24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

3. All activities (including dispatches and deliveries) in relation to the use hereby approved shall be carried out in accordance with the details set out within paragraph 3.03 of the Supporting Statement dated August 2023 and produced by Northern Design Partnership.

Reason: To ensure that the proposed development does not negatively impact the highway network in the interest of Highway Safety and to accord with Policies LP 21 and LP22 of the Kirklees Local Plan.

4. The retail unit shall be used solely for the distribution of fireworks and shall at no time expand their product catalogue.

Reason: To ensure that the proposed development does not negatively impact the highway network or the vitality of town centres in the interest of Highway Safety and to accord with Policies LP 13, LP21 and LP22 of the Kirklees Local Plan and Chapters 7 and 12 of the National Planning Policy Framework.

NOTE: Due to its location, a bat roost may be present on site. Bats are a European protected species under regulation 41 of the Conservation of Habitats and Species Regulations 2010. It is an offence for anyone intentionally to kill, injure or handle a bat, disturb a roosting bat, or sell or offer a bat for sale without a licence. It is also an offence to damage, destroy or obstruct access to any place used by bats for shelter, whether they are

present or not. If bats are discovered on site development shall cease and the applicant is advised to contact Natural England for advice.

Plans and specifications schedule: -

Plan Type	Reference	Date Received
Location plan		9/08/2023
Existing site plan	01	9/08/2023
Proposed site plan	02	9/08/2023
Existing Floor Plan	03	9/08/2023
Proposed Floor Plan	04	9/08/2023
Climate change statement		15/08/2023
Flood Risk Assessment		23/08/2023
Supporting Statement	August 2023	09/08/2023

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.

No alterations were required through the course of the application.