

**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:	<b>2023/62/93031/W</b>
Site Address:	Wappy Springs Inn, Lindley Moor Road, Lindley Moor, Huddersfield, HD3 3TD
Description:	Erection of mixed industrial development (Use Classes E(g)(ii, iii), B2 and B8); including demolition of existing structures, new yard, parking, landscaping, drainage features and ancillary structures
Recommending Officer:	Louise Bearcroft

**DECISION - Refused**

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

***David Wordsworth***

**Date: 15/07/24**

## Site Description

The application site lies to the north of Lindley Moor Road, and to the south of the M62 motorway. In the central part of the site is a vacant public house, the 'Wappy Springs Inn', and its associated car park and outdoor amenity space, together with some ancillary structures. The remainder of the application site (to the east and west of the public house) comprises undeveloped grazing land.

The application site comprises an area of approximately 0.7ha and is entirely located within the Green Belt in the Kirklees Local Plan. Levels across the site are relatively flat and notable features include mature trees along the banking between the northern boundary of the site and the adjacent M62 Motorway, and to the site frontage adjacent to Lindley Moor Road. There are also mature trees located centrally within the site. There is a small stable building abutting the northern boundary.

The site is adjacent to the M62 Motorway, and surrounding land uses include agricultural uses to the north-east, and an industrial development and car showroom to the south on the opposite side of Lindley Moor Road. Directly opposite the site is a Grade II listed boundary stone.

The application site is located within Flood Zone 1 and is therefore generally at low risk of flooding. A culverted watercourse passes through the eastern portion of the site.

## Description of Proposal

The application seeks full planning permission for the demolition of the public house and for the erection of a 'Nano Park' which would extend beyond the existing public house curtilage into adjacent undeveloped land. In the Planning statement at paragraph 1.2 the applicant defines the 'Nano Park' concept as follows:

*'The Nano Park concept aims to fill a significant gap in the current space provision for small companies, new start-ups, and larger businesses pioneering new products or new markets'.*

The proposed industrial development would comprise of 15 units, each two storeys in height, which would be laid out in four blocks in the northern portion of the site. Three blocks would front onto Lindley Moor Road, with one to be sited perpendicular to the highway. Each unit would provide 170sqm of new floor space, with a total of 2,550sqm new floor space. The applicant proposes a hybrid approach to occupation of the units with storage or industrial space provision at ground floor and ancillary office accommodation at first floor. The proposed use classes are as follows:

E(g)(ii) – Research and development of products or processes

E(g)(iii) –Any industrial process which can be carried out in any residential area without detriment to the amenity of that area.

B2 – Use for the carrying on of an industrial process other than one falling within the uses described in Class E.

B8 – Use for storage or as a distribution centre.

Whilst a hybrid approach is envisaged, the proposal would permit any unit to have any of the use classes listed above.

The units would be constructed of natural stone and dark grey cladding with feature glazing. The roofs would have a 6-degree minimum pitch. A yard area is proposed in the southern portion of the site, and vehicular and pedestrian access would be off Lindley Moor Road. The application proposes a new junction layout with a right-hand turning pocket, and a total of 48 off-street parking spaces, including disabled spaces and cycle stands.

The proposal requires the felling of trees within the site boundary and proposes a replacement landscaping scheme of trees and other planting, predominately to the boundaries of the site. The existing dry-stone wall would be retained along the frontage of Lindley Moor Road.

It is proposed surface water would be disposed of via an existing watercourse and a dry basin is proposed adjacent to the eastern boundary. Foul sewerage would be disposed of by a package treatment plant.

### **History of negotiations/amendments received**

Officers have negotiated to allow the applicant an opportunity to submit any additional supporting information in respect of the principle of development in the Green Belt, together with the opportunity to submit any revisions to the plans or supporting documents in response to issues raised through the consultation process.

The applicant has amended the description of development to remove a proposal for office use (use class E(g)(i)).

The applicant has submitted the following additional documents:

- Legal Note
- LP48 Statement (Loss of Public House)
- Copy of the Biodiversity Net Gain Metric

### **Relevant Planning History**

2007/90489 – Erection of Shelter and Formation of Walkway – Conditional Full Permission

2021/91611 –Erection of 12 units and business hub for mixed industrial development, 1, 782sqm hybrid industrial space (Use Class(g)(i, ii, iii), B2 and B8) and 510sqm Industrial (Use Class E(g) (ii and iii), B2 and B8 with ancillary E(g) (i) space), including Part 3 Class V rights for use of that space for up to

162sqm of Business Hub (Use Class E(g)(i) with ancillary E(b)) and up to 510sqm for a Doctor's Surgery (Use Class E(e)) or up to 510sqm for a Nursery (Use Class (f)); including demolition of existing structures, new yard, parking, landscaping, drainage features and ancillary structures – Withdrawn

### **Representations**

The application was advertised by site notice, neighbour letter and press notice with the publicity expiring 22 December 2023. As a result of this publicity 8 representations have been received including 1 general comment, 2 letters of support and 5 objections.

### General Comments

- The site has a prominent position in the landscape, and drainage sensitivity. Policy on climate and biodiversity must ensure the highest standards of conservation and meaningful mitigation.
- Note the groundwater risk and risk to run off from the site to a watercourse.
- The provisions of Local Plan Policy LP33 should be rigorously applied, all existing trees contribute to the amenity of the site, protected by policy and thus TPO on these grounds. The street view shows a continuous wooded site with trees between the buildings. This should be conditional and all vegetation and landscape achieving restoration of the natural native habitat of the site, prior to the first development. This should be the basis of assessment of biodiversity and Biodiversity Net Gain.

### Comments in Support

- The proposal would offer opportunity for smaller businesses to thrive.
- The design looks smart with little impact on private residents.
- There is an existing access and great transport links, there would be very little disturbance to local roads.
- The site is nearly in ruin and is not viable as a pub.
- Investor would seek to relocate here one if not two businesses from Rochdale & Leeds, with a business plan which incorporates investment and further employment opportunity for local people.
- A push on housing has been granted with three estates yet nothing has been done to address lack of facilities or enterprises north of Lindley.
- The enterprise park can contribute to a reduction in traffic speed.
- Consideration should be given to a pedestrian crossing and a turn in lane from the main road.

### Comments Against

- Destroying Green Belt damages Huddersfield's opportunity to create economic benefit. People and businesses are attracted to Huddersfield because of green open spaces, countryside and quality of life. This development takes those attributes away.
- The proposal is located on Green Belt where development is restricted. It is detrimental to visual amenity and the openness and character of the Green belt and fails to comply with Chapter 13 of the NPPF. The Local Plan does not identify the site as suitable for development.

- There are suitable, flexible and high quality accommodations for small businesses and start-ups. In Huddersfield there is the 3M Buckley Innovation Centre and the forthcoming Health and Wellness centre. Suitable accommodations exist in local villages.
- Huddersfield Town Centre and surrounding areas offer suitable options to create economic benefit instead of damaging Green Belt.
- The development constitutes overdevelopment and in no way offers benefit that outweighs harm to the Green Belt.
- The site provides a habitat for wildlife and acts as a green corridor between Lindley Moor Road and the M62 motorway. This corridor is essential for wildlife to move safely between areas.
- There has been housing development in this area which has caused an increase in traffic. Development of businesses will exacerbate this.
- Traffic pollution is awful, and congestion is daily.
- Crossing the road is difficult; further traffic will inevitably cause accidents.
- Lindley Moor is unrecognisable to what it was a decade ago.
- Another application felling trees and planting saplings. This is unacceptable for the climate emergency and nature catastrophe.
- It is not clear which trees are going and which are to be retained. The trees officer's comments need considering. Felling trees for an industrial development is wrong.
- With new housing in the area, along with 3 large companies the traffic has increased dramatically.
- Air Quality is extremely poor which will lead to an increase in Respiratory conditions, with over 600 pupils on roll at Moorlands Primary School and Lindley Infants and Junior School, 1.5 miles away. Concern for the health of school pupils and the population in HD3.
- Any further development should be refused on Lindley Moor Road and surrounding areas, we should be improving air quality, not adding to it.
- All trees offer free carbon capture and should remain, with more trees planted on Lindley Moor. All TPO trees have to remain.
- Cycle Kirklees object; provision for walking and cycling is inadequate and the transport report lacks required elements to make this accessible by non-drivers and comply with DfT guidelines.
- The A643 (Lindley Moor Road) is a busy road with excessive speeds and will carry more traffic if approved. The site will attract traffic from motorway junctions as well as through residential areas.
- There needs to be improvements to make accessibility of the site on a bike or foot safer and practical. A controlled crossing would create safer access to the shared path from Crosland Road. It would allow safe crossing between the shared path, Haigh House Hill and Old Lindley Road. Although a toucan or shared path may not be required the added movements would justify this as a well-used path.
- A footpath between Crosland Road and new housing off Weatherhill Road was included in the improvement plan for previous developments. This appears overdue for attention and should be designed as a shared path for pedestrians and cyclists.
- There are only a few cycle stands near units 4 and 5 whereas there is provision for car parking near all units. There should be sheltered cycle

stands at each set of units. Provisions in LTN 1/20 recommends 1 bicycle parking space per 500m<sup>2</sup>. With a projected 8366m<sup>2</sup> floor space we propose 16 spaces – making a set of 4 covered Sheffield stands outside each building. Whilst cycle parking meets the requirements for distance to building entrances for units 1-8 additional spaces should be provided to cater for all units.

- There should be 5% for disabled cycles (1 space) to go next to the disabled bays, however if all cycle parking was located outside the entrances this would be sufficient.

The following comments have been received from Ward Members:

*Cllr Burke* - "This piece of land is small and in between Lindley Moor Road and the M62, not exactly fit for housing or anything else and certainly not Greenbelt as we would think of it. It would be a shame to miss the potential opportunity for our area and looking forward it's likely this wouldn't be designated as Greenbelt"

*Cllr Smith* – I would echo Cllr Burke here, although technically green belt this small parcel of land is trapped between industrial units on the opposite side of the road and the M62. The site is also an eyesore and a magnet for vandalism and ASB since the pub closed. For this plot, I would be supportive of it's use to develop units that will provide opportunities for local small businesses.

## **Consultation Responses**

### **Statutory:**

Lead Local Flood Authority – Additional information is required prior to providing a full response

The Environment Agency – No objections

Yorkshire Water – No Response

### **Non-statutory:**

K.C Policy – Object

K.C Highways Development Management – Additional information and revised plans are required.

K.C Waste Strategy – Further information is required.

K.C Trees Officer – Object as the proposal conflicts with Policy LP33 of the Kirklees Local Plan.

K.C Ecology – Object

K.C Conservation and Design – The demolition of the Inn, along with the loss of open space would be regrettable, and the preference would be for the applicants to explore the re-use of the existing building.

K.C Pollution and Noise Control – Further details are required regarding the proposed foul drainage and a revised Air Quality assessment is required.  
West Yorkshire Police – No objections

K.C Landscape Architect – No response received.

K.C Business, Economy and Regeneration – No response received

Calderdale Local Planning Authority – No response received

## **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 27<sup>th</sup> February 2019).

### Kirklees Local Plan (2019):

- LP1 – Presumption in favour of sustainable development
- LP2 – Place Shaping
- LP7 – Efficient and effective use of land and buildings
- LP9 – Supporting skilled and flexible communities and workforce
- LP20 – Sustainable Travel
- LP21 – Highways and Access
- LP22 – Parking
- LP24 – Design
- LP27 – Flood Risk
- LP28 – Drainage
- LP30 – Biodiversity and Geodiversity
- LP32 – Landscape
- LP33 – Trees
- LP35 – Historic Environment
- LP38 – Minerals Safeguarding
- LP48 – Community Facilities and services
- LP51 – Protection and improvement of local air quality
- LP52 - Protection and improvement of environmental quality
- LP53 – Contaminated and unstable land
- LP59 – Brownfield sites in the Green Belt

### Supplementary Planning Guidance / Documents:

Kirklees Highway Design Guide, November 2019

### Climate change

The council approved Climate Emergency measures at its meeting of full Council on 16/01/2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.

On 12/11/2019 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. In June 2021 the council approved a Planning Applications Climate Change Guidance document.

#### National Planning Guidance:

Chapter 2 – Achieving Sustainable development

Chapter 4 – Decision Making

Chapter 6 – Building a strong, competitive economy

Chapter 8 – Promoting health and safe communities

Chapter 9 – Promoting sustainable transport

Chapter 11 – Making effective use of land

Chapter 12 – Achieving well-designed places

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

Chapter 16 - Conserving and enhancing the historic environment

#### **Assessment**

##### **Land use and Principle of development**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that in considering planning applications the determination must be made in accordance with the development plan unless material considerations indicate otherwise. This is re-iterated within paragraph 2 of the National Planning Policy Framework (NPPF).

Section 2 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development and defines this as the balance of economic, social and environmental elements. Paragraph 10

states that at its heart is a presumption in favour of sustainable development. For decision making this means that development proposals that accord with the Development Plan should be approved without delay, but where the Development Plan is absent, silent or relevant policies are out of date, LPAs should grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole, or specific policies within the NPPF indicate that development should be restricted.

The application site is located within the Green Belt. The NPPF sets out that the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open, and it establishes five purposes of the Green Belt, including to assist in safeguarding the countryside from encroachment. Paragraph 152 of the National Planning Policy Framework (NPPF) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 of the NPPF states local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Paragraph 154 of the NPPF states a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this include limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development.

### *Assessment of Harm to the Green Belt*

#### *Impact on openness*

The site does not sit within the wider countryside nor has a relationship to the wider countryside, nonetheless it does retain something of a localised countryside character. The proposed development of 15 industrial units would have a significantly greater impact on the openness of the Green Belt than the previously developed part of the site (public house) and therefore fails to accord with paragraph 154 sub-section (g) of the NPPF. In section 4.10 of the supporting Planning Statement the applicant has provided a comparison of the existing permanent buildings which equate to 750m<sup>3</sup>, and the proposed industrial buildings which would amount to 9,325m<sup>3</sup>. The impact on openness is significant as the proposed units and associated hardstanding will encroach into two areas of undeveloped land either side of the public house resulting in a linear development which extends significantly beyond the footprint of the public house and its curtilage area to both the east and west.

The applicant deems the harm is mitigated by the location and character of the site; they consider the site is in an area of urban fringe and contains

urbanising features such as a stable, polytunnel and the curtilage of the public house. Officers are of the opinion however that equestrian buildings and polytunnels are not urbanising features as they would be expected outside of urban areas, and equally a public house and curtilage is not necessarily out of place in a countryside location. Officers do not agree the harm would be reduced by the character of the site, as the openness of the fields and the treed backdrop gives visual relief to the heavily urbanised nature of the land on the other side of Lindley Moor Road. The scale of the increase in built form and the spread of development over the site, as well as the change in character from country pub and grazing land to industrial park is materially significant. The proposed increase in both the amount and the spread of built form, as well as the intensification of the use of the site, will result in a significantly greater impact on openness than the existing public house.

#### Harm to the Purposes of including land within the Green Belt

In respect of the role of the Green belt in safeguarding the countryside from encroachment, the application site does perform this role although it is accepted that this is minor. Nonetheless the proposed Nano park will result in encroachment and cause harm to the purposes of including land in the Green Belt.

#### Summary of Harm to the Green Belt

In summary the proposed industrial development would have a significantly greater impact on the openness of the green belt than the existing public house, which would result from the scale of the development and the encroachment into adjacent undeveloped land. The proposal represents inappropriate development and in accordance with National and Local Policy should be refused unless the applicant can demonstrate 'Very Special Circumstances' which clearly outweigh the harm to the Green Belt.

#### Assessment of Very Special Circumstances

The matters the applicant has presented to be considered as 'Very Special circumstances' are as follows:

1. Need for start-up and small business space
2. Lack of alternative sites
3. Socio-economic benefits and Economic benefits
4. Environmental Benefits

In addition to the Planning Statement, the applicant has presented evidence in a 'Need Statement' and an 'Alternative Sites Assessment'.

##### *1. Need for Start-up and small business space*

In respect of a general need for employment land, there are currently employment and mixed-use allocations in the district that are not developed, these are part of the employment land supply and should be developed prior to Green Belt land.

Turning to the need for start-up and new business space, the applicant has provided a 'Need Statement'. The applicant has provided data from the Office for National Statistics which shows a growth for business start-ups, but that there has also been a reduction in net business registrations. ONS data supplied by the applicant suggests a large proportion of businesses in Kirklees are either microbusinesses or small businesses and the applicant goes on to argue that lack of floorspace is preventing growth and success for smaller businesses. Officers note the low rate of business births compared with the UK, however it is considered the fall in net business births may have arisen due to other factors affecting the district and not just a lack of floorspace. Regarding the information on micro and small businesses, it may be the case that the businesses have secured the floorspace they require, or the operational requirements mean floorspace is not required. Therefore, it is considered the ONS data on its own is insufficient to support the case.

In respect of under delivery of small business space the applicant contends that the market favours larger units, whilst smaller units are less attractive due to additional costs which results in an under supply. In the 'Leeds City Region Strategic Employment Evidence - Land and Property' report dated February 2021 it identifies an under supply of small and mid-sized premises, acting as a barrier to growth and that the strength of the warehouse market encourages development at the expense of small industrial units. In Kirklees where there has been development and/or a planning application on an allocated site, larger scale premises have come forward. It is considered this proposal could help address any undersupply of small industrial units, however this evidence covers all of the Leeds City Region and not just Kirklees.

In respect of quantitative need the applicant has used past take-up to assess the need for floorspace, and has identified a need for 2,291 sqm of small unit space per year. The applicant states the requirement for employment floorspace is low and the Council is over reliant on PEA sites to meet employment needs and smaller units have been excluded from the land supply and space is not being delivered. It is agreed past take up can be one way in which the need for employment floorspace can be assessed. Evidence highlights a need to provide smaller units across the Leeds City Region.

In respect of Occupier Need the applicant has set out a list of businesses requiring small units. On the list, there are businesses which want to locate in West Yorkshire, on the M62 corridor or in the Kirklees/Calderdale area. The application could provide floorspace for 15 of the businesses on a list of 38. As the application site is accessible from the M62 and is close to the district boundary of Kirklees and Calderdale, this site would fulfil the locational requirements of all the businesses listed in Appendix 4. It may be the case that there are more businesses who need 1,000-2,00 sq.ft of floorspace who did not participate in the applicant's survey and therefore it is considered that there is an occupier need for small business space, however this is along the M62 corridor and not specifically in Kirklees.

To summarise, there is evidence produced by the applicant and Leeds City Region which indicate an undersupply of small to mid-size premises, and well

as evidence from the applicant that indicates a demand within the M62 corridor. The evidence does however not demonstrate that there is a demand for units of this type and scale in this particular green belt location within Kirklees.

## *2. Lack of Alternative Sites*

The applicant claims there is no existing space on the market for this sector, no space with planning permission for this type or scale of use, and no alternative sites to meet this need. The requirements set out by the applicant are as follows and have informed the approach used to define the area of search:

Locational Requirements – Good access to the motorway network, good access to the main road network, good access to larger existing employment locations (customers and other businesses) and good access to urban areas (customers and staff)

Avoid Constraints – for example, very steeply sloping sites (which would increase build costs) and access through residential areas (which might cause amenity or environmental concerns)

Reasonably Available – Suitable, achievable and deliverable within the next 3 years (available within 3 years)

### *Location requirements*

A catchment area has been defined based on a 10-minute drive time from the motorway junctions in Kirklees. The applicant considers this catchment is broad enough to avoid excluding too much of the district, whilst capturing the need for occupiers to be able to access the main strategic highways network. Officers consider a 10-minute drivetime appropriate in terms of having good access to the motorway network. Proximity to the strategic road network is important to ensure that a site is well located to enable the efficient movement of HGV traffic and other associated vehicles to the existing and potential users of the site.

### *Constraints*

The applicant considers significant site constraints would have the potential to increase build costs. This is acknowledged, however officers do not consider that access through residential areas should be considered a significant constraint, and potential sites should be considered further, as developing such sites wouldn't always result in residential amenity or environmental concerns.

### *Existing Stock, and units currently on the market*

An occupier questionnaire of existing small units/starter units was undertaken which concludes the design and environmental expectations of occupiers is

high. Most companies were looking for new premises for a considerable period (70% looking for over 3 months) and were not able to find anything to meet their needs, in their preferred location (100%). Only 20% were able to find something which met their needs, but not in their preferred location. The applicant concludes based on this evidence there is an inadequate supply of this product locally, which suggests that developments secured on the Local Plan employment allocations have not delivered this type of product. All units currently on the market (searched by Eddisons property search engine via the Council's website) are outside of the catchment area. Council owned flexible workspaces have been considered, but most are fully let, and the applicant has reviewed available property by looking at local estate agents web pages and using their search functions, 3 properties were found and all of them are considered not appropriate by the applicant.

### *Alternative Sites*

The applicant has reviewed all of (in the applicants opinion) the available sites within the parameters set out above and discounted them all for this use due to suitability, availability or deliverability issues. A total of 40 sites have been identified and analysed by the applicant. The full site assessment proformas are provided as appendices and cover the following sites:

- Employment Allocations
- Mixed Use Allocations
- Priority Employment Areas (PEA) sites
- Safeguarded Land

### *Employment allocations*

6 allocations have been identified by the applicant that are within the search catchment. All of those are either fully developed or not available to the applicant now and are therefore not considered as reasonably available.

### *Mixed-use allocations:*

7 allocations have been identified by the applicant within the search catchment, however these have been discounted as either fully developed or not reasonably available. Officers note however that the site at Lindley Moor (MXS3) is adjacent to the Wappy Springs site and offers all the locational requirements, set out by the applicant as needed by this type of development. The approved planning application proposes in outline (among other things) 11 small B2/B8 units (with ancillary office) ranging between 260 and 525 sqm each. These units, even though they are a little larger than the proposed nano units will help to meet the demand for start-up and small business space set out by the applicant. The Lindley Moor allocation is an Enterprise Zone, where the key focus, as set out by the LCR SEP is "the acceleration of development and delivery of high-quality employment floorspace in the advanced and innovative manufacturing and complementary sectors". This is exactly the floorspace the Nano park aims to provide. Lindley Moor East is a 6.3 ha site planned to deliver between 16,250-22,000 sqm of B1/B2/B8 floor space. This site has an excellent strategic position, as it is centrally located on the

East/West M62 motorway link across the country and able to utilise either of the North/South M1 and M6 motorway links. This issue was brought to the applicants' attention however no further evidence has been provided as to why this site is not suitable.

### *Priority Employment Areas*

The LPA accepts some vacant land within PEAs is only suitable as expansion land for existing businesses and that with the constraints listed above the number of potential sites within PEAs will be limited. Although these are smaller sites which would lend themselves to small startup businesses.

### *Safeguarded Land*

This land is to be protected from development during the local plan period to be considered for development through a review of the Local Plan. The consideration of the permanent development of safeguarded land will only occur through a change to the allocation through a review of the Local Plan. Therefore, it is not appropriate to consider Safeguarded Land at this stage.

### *Summary*

To summarise, although the applicant has considered and discounted alternative site options, there is no clear evidence as to why the site at Lindley Moor (MXS3) adjacent to the Wappy Springs site, which offers all the locational requirements set out by the applicant as needed by this type of development, is not suitable.

### *3. Socio-economic benefits and Economic benefits*

In respect of the stated potential economic and socio-economic benefits from the development of the site, officers do not attribute significant weight for reason that such benefits would not be unique to this site. Any new development within the district, especially development that will secure further investment, business retention and provide a platform for business start-ups would make a positive contribution to the local economy, both in terms of Gross Value Added and job creation.

### *4. Environmental Benefits*

The applicant states the development will result in a considerable uplift in the biodiversity value of the site, with a proposed Net Gain of 35%. The metric has been assessed by the Council's Ecologist, and there are significant concerns with its accuracy. These are discussed in more detail later in the report, however in summary the metric fails to account for linear features in the post development plan. It also fails to account for trees present within the site, and the loss of all the trees within the central areas of the site would create a more negative deficit post development. In addition, it is stated there will be 0.207 ha of mixed scrub created within the site, whilst from a review of the landscaping plans, there is a small section to be created, which when

measured is no greater than 0.05ha. The landscaping plans show sections of grassland however the metric makes no mention of these. Officers conclude the applicants high score is a result of these factors and that mixed scrub is proposed to be delivered in moderate condition, whereas the landscaping proposals show ornamental planting, grassland and linear features. Taking into account the inaccuracies identified in the metric, there is insufficient evidence to attribute any weight to this matter.

### *Additional Evidence*

The applicant has submitted a legal note which states the determinative question in national policy is whether the scheme's benefits clearly outweigh its harms. It states there is no further test, e.g. the scheme's benefits do not need to be "remarkable" or "unusual", that they clearly outweigh the harm is enough. It goes on to say there is no need for individual benefits to outweigh the harm, the question is whether the benefits taken as a whole pass the test. It also states that there is no sequential test, whereby the test can only be passed if all non-Green Belt land has been definitively ruled out.

The author of the statement also states it is legitimate for the applicant to focus on meeting needs for this scheme, and that other sites would need to be reasonably available and deliverable to meet these needs. Alternatives should be considered which fall within a reasonable catchment area, and sites outside of that area can be excluded. They consider the question is meeting the needs identified within a reasonable period of time, and if this is likely to require land beyond that allocated, this supports giving greater weight to meeting those needs. The author of the statement also considers that even if alternative sites could be available, the needs that this scheme would meet are benefits to be given weight.

### Do the Matters amount to 'Very Special Circumstances'?

Paragraph 153 of the NPPF states local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in 'very special circumstances'. The proposal would cause harm by reason of inappropriateness, its impact on the openness of the Green Belt, and harm to the purposes of including land in the Green Belt.

For the detailed reasons given above it is considered the matters presented by the applicant do not amount to 'Very Special Circumstances' which clearly outweigh the harm. Kirklees has allocated employment and mixed-use sites, which have not yet been developed, they are allocated to support the local Advanced Manufacturing Sector, provide start-up and small business space and create jobs. Whilst the evidence submitted does demonstrate that there is a need for units of this type and scale, the evidence covers the whole of the Leeds City Region. Similarly, whilst the applicant has evidence a demand for these types of units, this covers the M62 corridor and not specifically Kirklees. In conclusion therefore the application does not evidence a need on this particular green belt site.

In respect of alternative sites, the applicant has failed to provide sufficient evidence as to why the Lindley Moor (MXS3) allocation, adjacent to the Wappy Springs site, which offers all the locational requirements set out by the applicant, is not suitable. Furthermore, the stated economic and socio-economic benefits are not unique to this particular site, and taking into account the inaccuracies identified in the Biodiversity Net Gain metric, the stated environmental benefits are not given weight. Taking into account all of the matters the applicant has presented as 'Very Special Circumstances', it is not considered the matters amount to Very Special Circumstances' which clearly outweigh the substantial harm to the Green Belt and the principle of development is not considered to be acceptable.

### Loss of Public House Use

Paragraph 97 of the NPPF states that to provide the social, recreational and cultural facilities and services the community needs, planning decisions should 'guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.'

Further to this, Policy LP48 of the Kirklees Local Plan relates to community facilities and services. Policy LP48 states that: "Proposals which involve the loss of valued community facilities such as shops, public houses and other facilities of value to the local community will only be permitted where it can be demonstrated that:

- a. there is no longer a need for the facility and all options including the scope for alternative community uses have been considered; or
- b. its current use is no longer viable; or
- c. there is adequate alternative provision in the locality to serve the local community which is in an equally accessible location; or
- d. an alternative facility of equivalent or better standard will be provided, either on-site or equally accessible; and
- e. any assets listed on a Community Asset Register have satisfied the requirements under the relevant legislation."

The text supporting LP48 notes that:

*"Where the proposal involves the loss of land or premises presently or last in community use, the applicant will normally be required to provide evidence covering the results of reasonable attempts to actively market the land or premises for sale or lease, at existing use value to demonstrate that there is no longer a need for the facility.*

*The following additional information will be required for licensed premises*

- *the last 3 years trading accounts with a breakdown of the percentages of income from food and drink;*
- *where a dining facility is provided, details of the market aimed at and the number of covers available;*
- *who the licence is currently held with and when it is due for renewal;*
- *the opening times for the premise*

Within the supporting Planning Statement, it confirms the existing public house, the Wappy Spring Inn closed in 2022. In relation to criteria (a) and (b) of Policy LP48 of the Kirklees Local Plan, a LP48 statement is submitted alongside the application, however officers consider that this is very basic. This statement notes “The site was marketed for around 2 years before the applicant purchased it. There were only two interested parties in purchasing the one site, one was a popular garage forecourt operator who later pulled out of the deal, and the other was Frank Marshall Estates”. The statement lacks details of specific dates during which the property was marketed, details of who the site was marketed with, and how it was marketed.

In respect of the additional information required for licensed premises, 3 years trading accounts have been provided from Companies House which all show a loss, however this does not breakdown the percentages of income from food and drink. Within the statement it is confirmed the opening times for the premise were Tuesday to Saturday 17:00 to 23:30 and Sunday 12:00 to 23:00, with 17 tables for dining. Details have been provided that there is a licence still in force, although the licence holder has retired.

Officers have concerns with the lack of detail provided in the statement in respect of criteria (a) and (b). Notwithstanding this, the evidence does show that the public house made a loss for the last three years, and in the absence of any further detailed financial information, which the applicant states they are unable to obtain, this is taken at face value. It is considered the information is, on balance, just sufficient to demonstrate that the proposal has met the criteria point (b) of Policy LP48, that the current use is no longer viable.

### Town Centre Uses

As detailed in the Planning Statement the applicant envisages the units would be hybrid in nature, to be used for either storage or light industrial space on the ground floor, and office accommodation at first floor. Clarification on the uses proposed was requested from the applicant, for reason that the application sought permission for all the units to have office use (use class E(g)(i)). In these circumstances, as a main town centre use the applicant would be required to submit a sequential test and impact assessment in accordance with Local Plan Policy LP13. In response, the applicant has amended the description of the proposal to omit office use. Officers sought further clarification in respect of the proposed hybrid use, and the agent has confirmed the following:

*“These would be 2 storey buildings, with the office upstairs and the main use below. The small size of the individual unit means that having “ancillary” office would mean too small an area of space to be practical. This means that they end up being pretty much 50/50 (hence hybrid) office component and storage / light industrial. However, the main business would not be office related. The office component would always be linked to a B2 / B8 / Eg(iii) main use”*

An ancillary use can be generally defined as a use which support the activities of the primary use. Officers raise concerns that the intention to use half the floorspace for office use would amount to more than an ancillary use, however the proposal is speculative and at this stage the floor plans do not show internal layout details. On the basis on the amended description, a sequential test and impact assessment is not required.

## Minerals

The application site is within a wider mineral safeguarding area relating to surface coal resource (SCR) with sandstone and/or clay and shale and Local Plan policy LP38 therefore applies. This states that surface development at the application site will only be permitted where it has been demonstrated that certain criteria apply. Criterion 1a of policy LP38 is relevant and allows for approval of development here if the mineral concerned is proven to be of no economic value as a result of the undertaking of a Mineral Resource Assessment.

The applicant has submitted a statement which highlights that the site is at the bottom of an embankment which supports the M62. This embankment will require a pillar of support to retain the stability of that slope, and any quarrying in this location could potentially cause the M62 to collapse if works remove the supporting rock structures. Similarly, Lindley Moor Road, Old Lindley Road and the adjacent property need to remain on competent ground. Taking into account these matters, including the need to support the adjacent retaining wall at the north east corner of the site, and the need to bench the sides of the extraction faces, the statement concludes there would only be a very small amount of available stone would not be commercially attractive to extract. The applicant considers it highly unlikely that a commercial quarry operator would mobilise the resources required to extract a small amount of available stone, particularly given it's likely quality. The author of the statement goes on to say that whilst a full mineral resource assessment has not been undertaken, the cost of mobilisation would far exceed the possible returns, particularly given the areas that need to be preserved to ensure that the surrounding infrastructure remains on competent ground. The statement concludes the development will therefore have no effect on sterilising mineral resources, as existing infrastructure serves to make the mineral under this site unextractable. The applicant has concluded that the mineral is of no economic value and that LP38 Part 1 a. is satisfied. Officers concur with this assessment.

Notwithstanding the conclusion of the principle of development, assessments have been undertaken of all other material considerations below.

## **Highway Matters**

### *Access*

Policy LP21 of the Kirklees Local Plan states that new development will normally be permitted where safe and suitable access to the site can be

achieved. Proposals shall demonstrate adequate information and mitigation measures to avoid a detrimental impact on highway safety and the highway network. Policy LP22 sets out the principles for the provision of parking, and Policy LP23 sets out the need to provide adequate networks for walking and cycling. Concerns have been raised in the representations received regarding highway safety. These include that there has been housing development in this area which has caused an increase in traffic, and that the development of businesses will exacerbate this. There is concern that there is daily congestion, and crossing the road is difficult, and the proposal will cause accidents. Cycle Kirklees object for the reason they consider there is inadequate walking and cycling provision.

The site takes access off Lindley Moor Road with the nearest Village being Lindley. The site is located in between the junctions of Old Lindley Moor Road and Haigh House Hill. Highways Development Management (HDM) note it is unclear if the internal arrangement is to be adopted but given the nature of commercial use as a minimum the junction arrangement should be built to adoptable standards. Furthermore, in respect of LP23 of the Kirklees Local Plan, improved cycle links could be provided in the vicinity of the site.

It is proposed to access the site via one singular point of access off the A642 Lindley Moor Road. Given the posted speed limit of 40mph and observed driven speeds along Lindley Moor Road it is imperative that the junction and deceleration lane into the proposed development are designed to relevant standards. In addition, given the site will facilitate a large quantity of HGV's the proposed site access should have 10m corner radii. HDM advise that confirmation that this has been carried out should be provided and detailed on the plans accordingly. In addition, HDM raise concern that the current layout may not extend far enough back into the site to avoid conflicts between long vehicles turning in and other traffic moving in the site (crossing east-west / vice versa). This could lead to long vehicle's stopping early, and their trailers overhanging the carriageway, with obvious consequences. Problems could also occur if multiple smaller vehicles arrived at the same time whilst others were exiting. HDM advise that it would be preferable if the units were located along the front of the site facing north, with access accrued towards the rear of the site, before any 'side-road' junctions were taken from it. In respect of other concerns there is no splay to prevent trailer overrun of the footway by longer vehicles turning left out, the alterative being them swinging out and overrunning the oncoming central right turn lane, which would be unsafe.

*Traffic Impact/Network Assessment:*

The TRICS database has been used to estimate development related trips, below is the AM and PM peak period trips associated with the whole development as detailed in table 7 of the submitted Transport assessment.

Traffic Generations

	Arrivals	Departures	Two-Way
AM peak	11	4	15
PM peak	4	10	14

HDM note that whilst this is considered acceptable there is no information on the assignment and distribution of traffic or base flows including nearby committed developments taken into account for the development. This information should be provided to enable an informed assessment and ensure the level of traffic can be accommodated at Lindley Moor roundabout during the peak periods.

#### Junction Assessment

The Councils Urban Traffic Control (UTC) section have been consulted regarding this application in terms of junction assessments, in particular the modelling of Ainley Top roundabout. Given the request to include the assignment and distribution and committed development into the assessment this information would be reassessed by the UTC team.

#### *Internal Layout/Servicing/Bins*

It is advised that the internal layout should be designed in accordance with the Councils SPD Highway Design Guide for industrial /commercial developments, and further clarification is sought regarding the intended adoption of the internal arrangement. The Waste Collection Authority do not have a legal duty to collect commercial and industrial wastes from the site, however they advise that adequate access should nonetheless be provided. In respect of the details submitted, no storage or loading locations are shown, and with limited information on future tenants, it is difficult to predict waste generation and storage capacity requirements. The Waste Collection Authority advise that separate provision is made for recyclates and residual wastes, and compounds should be large enough for the need. The drag out distance for wheeliebins should be under 15m, and all storage areas should be secure with full consideration being given to fire risk. External compounds should be more than the 6m from the units, and access and turning facilities must be demonstrably sufficient for a refuse collection vehicle and swept path analysis must show the manoeuvrability of this vehicle throughout the site, demonstrating the safe passing of other vehicles using the access.

To summarise, amendments and further information are required, including an amended site access and details of cycle facilities, and amendments to the site layout and parking provision to accommodate HGV movements to and from the site safely. Amended plans should show construction details, vertical alignment/gradient details, junction/forward visibility details and additional Swept Path Analysis. Furthermore, the layout must be subject to a Stage 1 Road Safety Audit. In addition, committed developments in the vicinity of the site, should be incorporated into the Transport Statement with appropriate base flows and assignment and distribution indicated accordingly. Notwithstanding the conclusion on the principle of development, officers have brought these matters to the attention of the applicant and given reasonable opportunity for the applicant to submit any revised plans/documents. No further details have been submitted and based on the current plans HDM cannot support the proposal which would be detrimental to highway safety

and fail to accord with policies LP21, LP22 and LP23 of the Kirklees Local Plan.

### **Urban Design and Heritage Matters**

Policy LP24 of the Kirklees Local Plan states that proposals should promote good design by ensuring the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage as assets and landscape. The site is located within the green belt, with the central part of the site being occupied by the vacant public house and the remainder of the application site comprising undeveloped grazing land. In respect of heritage features the site is located directly opposite the Grade II listed boundary stone between Lindley and Old Lindley.

The existing building on this site, the Wappy Springs Inn, is understood to date to the late 18th century. Conservation and Design have commented that it could be considered a non-designated heritage asset, and consider the demolition of the Inn, along with the loss of open space around it, would be regrettable and they would prefer the applicants to explore the re-use of the existing building rather than its demolition.

Within the LP48 statement, it states the site was marketed for around 2 years and there were only two interested parties in purchasing the site, a garage forecourt operator and the applicant. As discussed above, the statement lacks detail, however at face value it would appear that there is no interest in an alternative use of the existing public house building. There is no local criteria by which to assess whether a particular building constitutes a non-designated heritage asset, and whilst the building has a level of social interest as a public house, architecturally it has been significantly modified. In summary therefore, there is considered to be insufficient evidence to support a reason for refusal for demolition of the public house on these grounds.

The listed boundary stone is located on the opposite side of the road, and with the proposed planting and retention of the existing low dry-stone boundary wall this would soften the impact of the development on its setting and lead to negligible harm.

The proposed units would be located towards the north of the site, with parking and a landscape buffer on the southern side of the site facing Lindley Moor Road. The proposed development would inevitably have a transformative effect on the appearance of the application site, as with the exception of the public house building, the site is currently green space would be developed with new buildings and hard surfaces. The issues raised about the harm to the Green Belt by reason of inappropriateness, and impact on openness are not to be repeated here. The units themselves would have an acceptable functional industrial design, to be constructed of natural stone, dark grey cladding and glazing with standing seam roofs. This does not however override the concerns raised about the impact on the Green Belt.

### **Residential Amenity**

Local Plan policy LP24 requires developments to provide a high standard of amenity for neighbouring occupiers. The nearest noise sensitive properties to the site are located to the north off Haigh House Hill (to the north of the M62), and to the south-west off Lindley Moor Road. There is a potential for loss of amenity to the occupiers of nearby properties from noise and vibration from the construction phase of the development. Therefore, If the application was otherwise considered to be acceptable, it would be necessary for a condition restricting the times when noisy construction activities (including deliveries) will be permitted. Due to the scale of the development there is a significant potential for loss of amenity to the occupiers of nearby properties from fugitive dust emissions during the construction phase. Therefore, it would be necessary to impose a condition requiring a Dust Mitigation Plan. The plan should include a risk assessment to identify all sources of dust emissions during the construction phase and detail the mitigation measures required to control such emissions. If the application was otherwise considered to be acceptable these matters could be addressed by condition.

## **Environmental Issues**

### *Air Quality*

Concerns have been raised in the representations received that air quality is poor and may potentially may lead to an increase in respiratory conditions affecting pupils at local schools. An Air Quality Assessment has been submitted and the application has been classed as Medium because it is not within an Air Quality Management Area (AQMA) or near to a road of concern and falls below the criteria for a Major development. A screening assessment has been undertaken. The assessment uses monitoring data, DEFRA background maps and transport data to assess the impact of the development on air quality and the nearest AQMA 3 which is approximately 600m to the north east of the application site and encompasses Stirling Wood Close and Warren House Lane. With an assumed 50% distribution east and west along Lindley Moor Road, it is anticipated that the development will result in 69 daily vehicle movements. This will add 35 daily trips to the local road network and increase traffic on Lindley Moor Road by 0.2%. The report concludes that the proposed development will have an insignificant effect on air quality and as the proposal is for commercial use only there would be no relevant exposure. Therefore Type 2 mitigation would be required consisting of the following:

- electric vehicle charging points for 10% of parking spaces
- convenient links to alternative modes of transport for employees such as walking, cycling or buses to and from the proposed development
- secure cycle parking Comment

Pollution and Noise Control agree the proposed development is classed as medium but have concerns that the predicted traffic movements are not reflective of a worst case scenario. This is because the application seeks permission for all the units to have B8 (storage and distribution) usage. If all units were consistently operational 24/7, there is a potential for the heightened

number of vehicle trips generated to impact the Air Quality Management Area (AQMA). For this reason, they have requested a revised Air Quality Impact Assessment which is based on this worst -case scenario to determine the impact of the development on the AQMA. If the application was otherwise considered to be acceptable this could be addressed through condition. Details of Electric Vehicle Charging points could also be secured by condition. For non-residential developments WYLES requires a standard EVCP for at least 10% of parking spaces.

#### *Ground Conditions*

The proposed development is not shown as being potentially contaminated due to its former use and is not located within 250m of a former landfill. However, the Design & Access Statement by KPP Architects refers to ground conditions and a Phase 1 desktop study which was carried out on the site in April 2021. The Statement suggests the Phase 1 document also recommends that a Phase 2 ground investigation be undertaken. The Phase 1 Report has not been submitted with this application therefore, Environmental Services recommend contaminated land conditions to secure this. If the application was otherwise considered to be acceptable this could be addressed through condition.

### **Ecology, Trees and Landscape Matters**

#### *Ecology and Landscaping*

The majority of the application site comprises undeveloped land which includes within it a number of mature trees both within the site and along the boundaries. The applicant has submitted a Preliminary Ecological Appraisal. The report concludes the vegetation to be cleared has a low ecological significance and there was no conclusive evidence of protected species regularly occupying on the site or the surrounding area which would be negatively affected by the development of the site. Mitigation is proposed through a landscaping scheme.

A 10% net biodiversity gain should be demonstrated in accordance with chapter 15 of the NPPF, Local Plan policy LP30 and the Council's Biodiversity Bet Gain Technical Advice Note. The submitted metric concludes the proposals will result in a gain of 0.37 units or 35.86%. The Council's ecologist has assessed the details and notes that the metric fails to account for linear features in the post development plan, when the habitats surrounding the site post development clearly constitute such designation. The trees present within the site have also failed to be accounted for in the metric, and the proposals will result in all the loss of the trees present within the central areas of the site which would create a more negative deficit at the site post development. The reason for the high score is that the applicant has stated that there will be 0.207ha of mixed scrub created within the site, however from a review of the landscaping plans, there only seems to be a small section to be created which measured is no greater than 0.05ha. The landscaping plans show that there are some sections of grassland to be created, however the metric makes no mention of these. The reason for the high score is down to

these issues, and mainly the fact that they have put mixed scrub to be delivered in moderate condition, when the landscaping proposals clearly shown ornamental planting, grassland and linear features. All of the greenspace at the site has been classed as mixed scrub which clearly will not be at all. To summarise the report is inaccurate and fails to adequately demonstrate an acceptable biodiversity net gain.

### *Trees*

Local Plan policy LP33 is relevant. The applicant has submitted an Arboricultural Impact Assessment, however there is an inaccuracy between the details in this document and the plans/information presented in the Design and Access Statement and landscaping plan. The Design and Access Statement and the landscaping plan show trees T9, T10, T12, T13 and T14 as being retained whilst the assessment doesn't. K.C Trees considers that based on the tree survey T10 would merit retention and protection. In respect of the others, it's apparent that there are defects and these trees are mostly unremarkable so no objections would be raised subject to the landscaping scheme replacing along that section of the boundary appropriate species and nursery stock.

In summary the proposal is contrary to Local Plan policy LP33. The applicant is advised the Arboricultural Impact Assessment needs to be revised to highlight areas that need to be protected from construction to prevent the soil structure being damaged, an evaluation of constraints that the retention of T10 would result in, and details of a draft tree protection plan for T10 and G1 during construction. The assessment should refer to issues to be addressed to ensure the realistic retention of T10. The applicant has been made aware of these issues and an opportunity was made available for the applicant to address these issues, however no further plans/information has been submitted.

### **Flood and Drainage issues**

In relation to flood risk and drainage, the requirements of chapter 14 of the NPPF, and Local Plan policies LP27 and LP28 must be addressed. Drainage and flood risk (including provisions for flood routing) should be a key influence on any layout proposed for the application site. The site is located in Flood Zone 1 which has a low probability of flooding. A culvert crosses the site from the Peat Ponds commercial site opposite, before travelling under the motorway and into Calderdale's boundary. The applicant has submitted a Flood Risk Assessment and Drainage Strategy.

### *Surface Water Drainage*

The Lead Local Flood Authority (LLFA) note that from testing at the nearby Peat Ponds Farm site soakaways are an unsuitable method of surface water disposal. BGS data suggests severe constraints on this site for infiltration techniques. A 3.5l/s restriction to watercourse would apply given the existing buildings drain to ground.

The LLFA advise the layout must be shown to have 'made space for water' including conservative estimates for SUDS systems, volumes for attenuation and treatment. This will be more demanding on this site given the restriction imposed on the outflow, and the culvert appears to clash with the area chosen to attenuate surface water. Measurements in relation to invert levels on outfalls is required. The LLFA note an above ground feature has been shown indicatively but not measured and suitable access will be required. A stand-off distance of 3 metres from the outside edge of any design is suggested as a minimum requirement but working space must be justified.

Accommodation of the existing watercourse crossing site should be demonstrated, independent of the attenuation feature and not be built over, having a suitable standoff distance. An assessment of deculverting the watercourse is expected and layout could be affected as a result. Suitable flood routing needs to be picked up in the flood risk assessment showing current flows and future flows and whether the design may open a route from Lindley Moor Road that has to be managed. The FRA is incomplete in this respect. An analysis of the depth of potential surface water flooding in the northeast corner is required. Layout could be affected. The site will need to accommodate a treatment works with an appropriate standoff distance and access provision. This also needs to be shown in any layout indicative or otherwise. A petrol interceptor or SUDS alternative is advised where 50+ parking spaces are made available, or car parking provision amounts to 800 square metres or more.

The LPA is obligated to ensure adequate maintenance and management of SUDS systems for the lifetime of the site and if the application was otherwise considered to be acceptable this would be secured via an unilateral undertaking using section 106 to ensure a management company is set up to perform an agreed itinerary and schedule of works.

### *Foul Drainage*

A mains drainage system is not available and in line with the Environment Agency guidance the applicant is required to follow the hierarchy of drainage options that must be considered and discounted in the following order:

1. Connection to the public sewer
2. Package sewage treatment plant (adopted in due course by the sewerage company or owned and operated under a new appointment or variation)
3. Septic Tank Foul drainage should be connected to the main sewer.

For this development the applicant proposes a package treatment system however no detailed information has been provided. Details are required of the location of the tank (which must not be so near to any inhabited building as to be liable to become a danger to health or a source of nuisance (a minimum of 7m is required but over 20m and down slope is preferable) or in an area where there is a risk of flooding). The discharge details for the tank must not present any risk of contamination to any watercourse, underground water or drinking water supply. The applicant is also required to demonstrate

that the tank will be of adequate capacity for the highest number of persons that may use the tank, and ensure it is in good working condition. In summary the applicant has been made aware of these issues and an opportunity was made available for the applicant to provide further drainage details, however no further plans/information has been submitted.

### **Climate Change**

A Climate Change Statement has been submitted with the application. This includes commitments regarding the use of air source heat pumps, insulation, energy efficient “white goods” and the reuse of cladding and sheeting otherwise not sold due to cosmetic blemishes. There are commitments to use construction products with proven lifespans, efforts to reduce wastage and to use local contractors and materials, and for waste arisings to be recycled where possible and reused if appropriate. South facing roof slopes will facilitate future provision of Solar PV, and for those buildings not oriented to face south, they will have side windows to allow solar gain. Furthermore, fittings will incorporate low flow flush WC’s and flow restrictors on taps. Drought resistant native species would be specified in the landscaping scheme, and mulching to retain soil moisture will be part of the management regime for landscaping and EV charging will be provided. These stated measures will assist the climate emergency.

### **Crime Prevention**

In respect of crime prevention measures, it is recommended that there be secure boundary treatment around the perimeter of the site with fencing to a minimum height of 2.2m. There are recommendations for an automated sliding gate to secure access, or a manual operated gate to the same height, material, and standards as the fencing, which allows the site to be secured outside of business hours and reduces the risk of crime and ASB problems. It is also advised there should be external lights that cover all access doors, parking areas, bicycle, and bin storage, and monitored CCTV that covers the site entrance / egress, car park, bicycle storage and front of the unit’s entrance doors. Doors and windows should look to achieve recommended standards and a monitored alarm should be installed, and bicycle storage should achieve recommended standards. Subject to adhering to recommended standards, there is no objection to the development.

### **Representations**

As a result of the publicity, 8 representations have been received including 1 general comment, 2 letters of support and 5 objections. The matters raised have been addressed in the report above.

Ward Members comments in support of the application are noted, however officers consider the development is inappropriate and the matters submitted for consideration do not amount to Very Special Circumstances which clearly outweigh the substantial harm to the Green Belt.

## **Conclusion**

The application site is located within the Green Belt. Paragraph 152 of the National Planning Policy Framework (NPPF) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 of the NPPF states local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. It is considered the matters submitted for consideration do not amount to Very Special Circumstances which clearly outweigh the substantial harm. The application has also failed to demonstrate that the proposal would have an acceptable impact on highway safety, drainage and ecology. To approve the application would be contrary to policies LP21, LP22, LP23, LP27, LP26, LP30, LP32 and LP33 of the Kirklees Local Plan and chapters 9, 13, 14 and 15 of the National Planning Policy Framework.

## **Recommendation – Refusal**

## Decision Authorisation - Delegated Powers

**Application Number:** 2023/93031

**Officer Recommendation:** Refusal

### Reasons for Refusal

1.The application site is located within the Green Belt. The proposed Nano Park development would cause substantial harm to the Green Belt by reason of inappropriateness, its impact on openness, and its harm to the purposes of including land in the Green Belt. In accordance with paragraph 153 of the National Planning Policy Framework inappropriate development should be refused unless the applicant can demonstrate 'Very Special Circumstances' which clearly outweigh the harm to the Green Belt. It is considered the matters submitted for consideration do not amount to 'Very Special Circumstances' which clearly outweigh the substantial harm to the Green Belt and the proposal would fail to accord with chapter 13 of the National Planning Policy Framework.

2.The application has failed to demonstrate that the proposal would have an acceptable impact on highway safety in respect of site access, site layout, and the impact on the highway network. To approve the application would be contrary to policies LP21, LP22 and LP23 of the Kirklees Local Plan and chapter 9 of the National Planning Policy Framework.

3.The application has failed to demonstrate that the proposal can achieve an acceptable drainage layout for surface and foul water, and to approve the application would be contrary to policies LP27 and LP28 of the Kirklees Local Plan and chapter 14 of the National Planning Policy Framework.

4.The application has failed to demonstrate that the proposal would achieve acceptable ecological/landscape mitigation, including an 10% biodiversity net gain. To approve the application would be contrary to policies LP30, LP32 and LP33 of the Kirklees Local Plan and chapter 15 of the National Planning Policy Framework.

Plans and specifications schedule:

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan	2000		12.10.23
Existing Site Plan	2001		12.10.23
Proposed Site Plan	2002	A	12.10.23
Streetscene	n/a		12.10.23
Outline Landscape Plan & Specification	PEP.538.001	04	12.10.23
Units 1-4 Floor Plans	2003	A	12.10.23
Units 5-7 Floor Plans	2004	A	12.10.23
Units 8-11 Floor Plans	2005	A	12.10.23
Units 12-15 Floor Plans	2006	A	12.10.23

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Units 1-4 Elevations	2007	A	12.10.23
Units 5-7 Elevations	2008	A	12.10.23
Units 8-11 Elevations	2009	A	12.10.23
Units 12-15 Elevations	2010	A	12.10.23
Planning Statement	n/a		12.10.23
Design and Access Statement	n/a		12.10.23
Minerals Safeguarding Statement	n/a		12.10.23
Flood Risk and Drainage Strategy	7270-HJCE-ZZ-XX-RP-3000		12.10.23
Transport Statement	21025 Lindley Moor Rd TS		12.10.23
Climate Change Statement	Appendix A		12.10.23
Preliminary Ecological Appraisal	7038		12.10.23
Biodiversity Metric	n/a		10.01.24
Air Quality Assessment	J0795/1/D1		12.10.23
Alternative Sites Assessment	n/a		12.10.23
Arboricultural Impact Assessment	16987-B/AJB		12.10.23
Need Statement	n/a		12.10.23
LP48 Statement	n/a		29.05.24
Legal Note with copy of Legal Instruction	n/a		29.05.24

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. Officers have negotiated to allow the applicant an opportunity to submit any additional supporting information in respect of the principle of development in the Green Belt, together with the opportunity to submit any revisions to the plans or supporting documents in response to issues raised through the consultation process.

Report Dated: 

11 July 2024
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