

# 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:         | 2023/62/93535/E                                                                        |
| Site Address:         | Shepley Spring, Brookfield Mills, Penistone Road,<br>Kirkburton, Huddersfield, HD8 0PQ |
| Description:          | Erection of temporary site cabins                                                      |
| Recommending Officer: | Nicole Helliwell                                                                       |

**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:** 08 March 2024

## **Officer Report**

**Reference No.** 2023/62/93535/E

**Site Address:** Shepley Spring, Brookfield Mills, Penistone Road, Kirkburton, Huddersfield, HD8 0PQ

**Proposal:** Erection of temporary site cabins.

## **Site Description**

The application relates to Shepley Spring, Brookfield Mills, an industrial site situated in Kirkburton, Huddersfield. The wider area comprises a combination of residential and commercial properties of similar materials and architectural styles. The site is not within a conservation area, nor are there any listed buildings or public right of ways within close proximity.

## **Description of Proposal**

The application seeks planning permission for the erection of temporary site cabins. The details of the proposal are summarised below:

- The site cabins would be stacked and would collectively have a width of approx. 9.9m and a depth of approx. 3.15m.
- The structure would have an overall height and an eaves height of approx. 5.5m - 5.6m due to changes in ground levels.
- The structure would have an external staircase for access purposes which would measure approx. 3.81m in height.
- Construction materials – powder coated aluminium panels to the external walls, a powder coated aluminium roof, black aluminium windows and orange powder coated steel doors.

The site cabins are already in situ.

## **Relevant Planning History**

- **2024/90065:** Dead or Dangerous Tree(s) to TPO 17/89. [Planning application details | Kirklees Council](#) – Noted
- **2023/92605:** Dead or Dangerous Tree to TPO 17/89. [Planning application details | Kirklees Council](#) – Noted
- **2020/92588:** Change of use from B8 (Storage and Distribution) to B2 (General Industrial). [Planning application details | Kirklees Council](#) – Pending Consideration
- **2020/92374:** Erection of gas powered reciprocating engine and 3 silos. [Planning application details | Kirklees Council](#) – Withdrawn
- **2020/91966:** Discharge conditions 3, 4, 7, 10 on previous permission 2019/92155 for demolition of 3 dwellings and formation of new access and carpark. [Planning application details | Kirklees Council](#) – Discharge of Condition(s) Approved

- **2020/90297:** Discharge condition 6 (acoustic fence) on previous permission 2019/92155 for demolition of 3 dwellings and formation of new access and car park. [Planning application details | Kirklees Council](#) – Discharge of Condition(s) Approved
- **2019/93731:** Removal of condition 3 (access arrangements and turning facilities) of previous permission 2016/90261 for erection of warehousing unit. [Planning application details | Kirklees Council](#) – Removal or Modification of Condition(s)
- **2019/93730:** Removal of condition 3 (no vehicle access or car parking) of previous permission 2017/90792 for removal of condition 13 (hours of working) of previous permission 94/90821 for erection of single storey dye house extension to dyeworks, diversion of stream and use of land to extend vehicular circulation area. [Planning application details | Kirklees Council](#) - Removal or Modification of Condition(s)
- **2019/92155:** Demolition of 3 dwellings and formation of new access and car park. [Planning application details | Kirklees Council](#) – Conditional Full Permission
- **2018/92357:** Discharge of condition 7 (drainage) on previous application 2017/93540 for erection of warehouse and engineer's workshop. [Planning application details | Kirklees Council](#) – Discharge of Condition(s) Split Decision
- **2018/92355:** Discharge of conditions 4 (Car Parking) 5 (Drainage) & 7 (Materials) on previous app 2016/90261 for erection of warehousing unit. [Planning application details | Kirklees Council](#) – Discharge of Condition(s) Split Decision
- **2017/93540:** Erection of warehouse and engineer's workshop. [Planning application details | Kirklees Council](#) – Conditional Full Permission
- **2017/92119:** Dead or Dangerous Tree. [Planning application details | Kirklees Council](#) – Noted
- **2017/90792:** Removal condition 13 (hours of working) on previous permission 94/90821 for erection of single storey dye house extension to dyeworks, diversion of stream and use of land to extend vehicular circulation area. [Planning application details | Kirklees Council](#) – Removal or Modification of Condition(s)
- **2016/90261:** Erection of warehousing unit. [Planning application details | Kirklees Council](#) – Conditional Full Permission
- **2016/90264:** Erection of extension to rear. [Planning application details | Kirklees Council](#) – Withdrawn
- **2015/94007:** Erection of sub-station to rear of existing warehouse. [Planning application details | Kirklees Council](#) – Conditional Full Permission
- **94/92857:** Erection of single storey dyehouse extension, diversion of stream and use of land to extend vehicular circulation area. [Planning application details | Kirklees Council](#) – Refused

- **94/91616:** Re-roofing and extension to dyehouse and formation of car park. [Planning application details | Kirklees Council](#) – Conditional Full Permission
- **94/90821:** Erection of single storey dyehouse extension to dyeworks, diversion of stream and use of land to extend vehicular circulation area. [Planning application details | Kirklees Council](#) – Conditional Full Permission
- **93/03382:** Outline application for single storey extension to dyeworks, diversion of stream and use of land for vehicular circulation area. [Planning application details | Kirklees Council](#) – Withdrawn
- **87/03857:** Outline Application for formation of leisure, commercial and residential uses within the bldgs and grounds and new highway access. [Planning application details | Kirklees Council](#) – Refused

## Representations

The application was publicised by neighbour notification letters, which expired on 29<sup>th</sup> January 2024. As a result of the above publicity, one representation has been received. The comments made have been summarised below:

- These "temporary" buildings have already been erected on 28.9.2023. They are two portacabins one of top of the other and are an eyesore!
- The portacabins appear to have been erected without planning permission and have already been in place for three months
- The cabins are an eyesore, they have bright orange paintwork and do not fit in at all with the surrounding environment
- They have been erected in a residential area, overlooking the back of the houses on Penistone Road and have impacted on the privacy of these houses
- The portacabins overlook my garden and have impacted negatively on my privacy
- The cabins are not in character with the rest of the environment and their appearance is unsightly
- They have been erected overlooking a residential area
- Shepley Spring are gradually chipping away at the character of a residential area, expanding their site at no or little thought for the residents

Kirkburton Parish Council – No comment

## Consultation Responses

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

KC Environmental Health – No objections subject to recommended conditions  
 KC Ecology - No objections

## **Planning Policy Background**

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).

The site is UNALLOCATED on the Kirklees Local Plan Proposals Map. However, it is located within the Strategic Green Infrastructure Network. The most relevant policies for consideration in this case are:

### **Kirklees Local Plan Policies**

- **LP 1** - Achieving Sustainable Development
- **LP 2** - Place Shaping
- **LP 3** - Location of New Development
- **LP 21** - Highways and Access
- **LP 22** - Parking
- **LP 24** - Design
- **LP 30** - Biodiversity and Geodiversity
- **LP 31** - Strategic Green Infrastructure Network
- **LP 52** - Protection and Improvement of Environmental Quality
- **LP 53** - Contaminated and Unstable Land

### **In this case, the following SPDs are applicable:**

- Highways Design Guide SPD (adopted 4th November 2019)
- Biodiversity Net Gain Technical Advice Note (adopted 29th June 2021)

### **National Policies and Guidance:**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published December 2023, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- **Chapter 2** - Achieving Sustainable Development
- **Chapter 4** - Decision-Making
- **Chapter 11** - Making Effective Use of Land
- **Chapter 12** - Achieving Well-Designed Places
- **Chapter 14** - Meeting the Challenge of Climate Change, Flooding and Coastal Change
- **Chapter 15** - Conserving and Enhancing the Natural Environment

## **Assessment**

### **1. Principle of development**

The site is without notation on the Kirklees Local Plan (KLP). 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.

Policy LP3 states that development will be permitted where it supports the delivery of employment growth in a sustainable way including the delivery of jobs. Whilst the development proposed may not directly create employment opportunities it will support ongoing operations and therefore meet Policy LP3 and the NPPF Chapter 6.

In this case, the principle of development on the application site is considered acceptable, and shall be assessed against other material planning considerations, including visual and residential amenity, as well as highway safety and other matters that may arise.

### **1. Impact on Visual Amenity**

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, extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details.

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby Paragraph 131 provides a principal consideration concerning design which states: *“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”*

The site cabins would collectively have a width of approx. 9.9m, a depth of approx. 3.15m and would be associated directly to the use of the site. The external walls of the cabins would be constructed from powder coated aluminium panels with a powder coated aluminium roof. The structure would be of a simple form and would appear subservient in relation to the existing buildings. Furthermore, the structure would not appear incongruous from public vantage points given the significant scale of the site. However, the site cabins are not constructed of materials nor designed as a permanent ‘building’ and as such will require removing to prevent harm to the character and amenity of the area at some point in the

future. Therefore, a condition has been added to the decision notice to ensure the permission is for a temporary period of time, to facilitate future control in the interest of visual amenity.

Having taken into account the above, it is considered that the proposed development would be acceptable from a visual amenity perspective, in accordance with Policy LP24 of the Kirklees Local Plan and Chapters 12 of the NPPF.

## **2. Impact on Residential Amenity**

Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be outlined, taking into account Policy LP24 c), which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers.

The submitted plans confirm that no properties to the north or west of the site would be affected by the proposed works.

### Impact on 60, 62, 64 and 66 Penistone Road

60, 62, 64 and 66 Penistone Road are residential properties located east of the application site. The submitted site plan confirms that approx. 27.6m would be retained to the rear elevation of no.60, approx. 26.5m would be retained to no. 62, approx. 23m would be retained to no.64 and approx. 30m would be retained to no.66. Given that the separation distances retained would be substantial, it is considered that there would be no undue harm to the neighbours' residential amenity with regards to overbearing, overshadowing or overlooking impact.

### Impact on 8 and 10 Brookfield

8 and 10 Brookfield are a pair of two storey semi-detached properties located south of the application site. The submitted plans demonstrate that the proposed development would occupy a position approximately 38.5m from the rear elevations of the neighbouring dwellings. Therefore, given the nature of the proposal, the difference in ground level and the substantial separation distances, it is considered that there would be no undue harm with regard to residential amenity.

Having considered the above factors, the proposals are not considered to result in any adverse impact upon the residential amenity of any surrounding neighbouring occupants, complying with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties and Paragraph 135(f) of the National Planning Policy Framework.

### **3. Impact on Highway Safety**

Local Plan Policies LP21 and LP22 of the Kirklees Local Plan are relevant and seek to ensure that proposals do not have a detrimental impact on highway safety and provide sufficient parking. Furthermore, Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The erection of temporary site cabins would not materially intensify the use or affect the existing parking arrangements on site. Therefore, the proposed development is considered acceptable in accordance with Policies LP21 and LP22 of the KLP, Chapter 9 of the NPPF and the Highways Design Guide SPD.

### **4. Other Matters**

#### Climate Change

On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates 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 this case, due to the nature of the proposal is not considered reasonable to require the applicant to put forward any specific resilience measures.

#### Contaminated Land

The site of the proposed development is adjacent to land which is potentially contaminated due to its former use (our site ref: 39/16). Whilst it appears that no changes to the hardstanding are proposed, KC Environmental Health have recommended a condition relating to unexpected contamination, should any groundworks be undertaken as part of the consent granted.

There are no other matters relevant to the determination of this application.

## 5. Representations

One representation was received following the statutory publicity. The comments made have been summarised and addressed below:

- These "temporary" buildings have already been erected on 28.9.2023. They are two portacabins one on top of the other and are an eyesore!

**Response:** *Any construction works undertaken prior to determination are at the Applicant's own risk and may be subject to enforcement action.*

- The portacabins appear to have been erected without planning permission and have already been in place for three months

**Response:** *Any construction works undertaken prior to determination are at the Applicant's own risk and may be subject to enforcement action.*

- The cabins are an eyesore, they have bright orange paintwork and do not fit in at all with the surrounding environment

**Response:** *The proposal's impact on the character and appearance of the street scene has been assessed within the 'Visual Amenity' section of the report.*

- They have been erected in a residential area, overlooking the back of the houses on Penistone Road and have impacted on the privacy of these houses

**Response:** *The proposal's potential impact on residential amenity has been assessed within the "Residential Amenity of Future Occupiers" section of the report.*

- The portacabins overlook my garden and have impacted negatively on my privacy

- **Response:** *The proposal's potential impact on residential amenity has been assessed within the "Residential Amenity of Future Occupiers" section of the report.*

- The cabins are not in character with the rest of the environment and their appearance is unsightly

**Response:** *The proposal's impact on the character and appearance of the street scene has been assessed within the 'Visual Amenity' section of the report.*

- They have been erected overlooking a residential area

***Response:*** *The proposal's potential impact on residential amenity has been assessed within the "Residential Amenity of Future Occupiers" section of the report.*

- Shepley Spring are gradually chipping away at the character of a residential area, expanding their site at no or little thought for the residents

***Response:*** *The proposal's impact on the character and appearance of the street scene has been assessed within the 'Visual Amenity' section of the report.*

## **6. Negotiations**

No amendments were sought or received during the course of the application.

## **7. Conclusion**

This application for the erection of temporary site cabins has been assessed against relevant policies in the development plan as listed in the policy section of the report, the National Planning Policy Framework and other material considerations. Given the acceptable design and lack of harm in terms of visual and residential amenity, the proposed development is considered acceptable.

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:** 2023/93535**Officer Recommendation:** Approve**Conditions and Reasons**

1. This permission hereby granted shall expire on 7th March 2029. On expiry of this period the site cabins and all associated development shall be removed and the site shall be restored in accordance with a scheme of work which will be submitted to the Local Planning Authority no later than six months before the expiry date of this permission. The scheme of works shall not be implemented until the Local Planning Authority has given its written approval. Works comprising the approved scheme shall be completed within six months of the date of the written approval.

**Reason:** The granting of a temporary permission would be in the interests of protecting visual and residential amenity and to accord with Policy LP24 of the

Kirklees Local Plan and the aims of Chapter 12 of the National Planning Policy Framework.

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

**Reason:** For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2, LP3, LP21, LP22, LP24, LP30, LP31, LP52 and LP53 of the Kirklees Local Plan, the guidance within the Council's Highways Design Guide SPD and the aims of the National Planning Policy Framework.

3. If contamination, or the presence of coal not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all works in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Works in the affected area shall not recommence until either (a) a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy.

Following completion of any measures identified in the approved Remediation Strategy a Verification Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as that part of the site has been remediated in accordance with the approved Remediation Strategy and a Verification Report in respect of those works has been approved in writing by the Local Planning Authority.

**Reason:** To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and Paragraph nos. 189 and 190 of the National Planning Policy Framework.

**NOTE:** All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2021. Reports must be prepared in accordance with the following guidance:

- *Land Contamination Risk Management (LCRM)*
- *BS 10175:2011+ A2:2017 Investigation of Potentially Contaminated Sites. Code of Practice*

- *Development on Land Affected by Contamination - Technical Guidance for Developers, Landowners & Consultants - (v11.2) June 2020* by the Yorkshire and Lincolnshire Pollution Advisory Group.

The conditions relate to Planning Control only. Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information. Any other necessary consent must be obtained from the appropriate authority. If the applicant commences work without discharging conditions, they will be at risk of enforcement action and invalidating the permission if the planning condition is a pre commencement condition.

**NOTE:** The granting of planning permission does not override any private legal rights or consents that may be required. It is the responsibility of the applicant / developer to ensure that all appropriate consents are in place prior to any development commencing; during the period of construction existing access for neighbouring properties is maintained; and no damage is caused to the access driveway or surrounding properties.

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

- 07.30 and 18.30 hours, Mondays to Fridays
- 08.00 and 13.00hours, Saturdays
- With no working Sundays or Public Holidays

In some cases, different site-specific hours of operation may be appropriate. Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which the works may be carried out.

**Plans and specifications schedule: -**

| Plan Type                           | Reference                | Revision | Date Received |
|-------------------------------------|--------------------------|----------|---------------|
| Location Plan                       | SSTC-MWA-XX-XX-DR-A-1000 | P1       | 05/12/2023    |
| Existing Floor Plans and Elevations | SSTC-MWA-XX-XX-DR-A-1001 | P1       | 05/12/2023    |
| Proposed Floor Plans and Elevations | SSTC-MWA-XX-XX-DR-A-1002 | P1       | 05/12/2023    |
| Existing Site Plan                  | SSTC-MWA-XX-XX-DR-A-1003 | P1       | 05/12/2023    |
| Proposed Site Plan                  | SSTC-MWA-XX-XX-DR-A-1004 | P1       | 05/12/2023    |
| Climate Change                      | -                        | -        | 05/12/2023    |

| Plan Type | Reference | Revision | Date Received |
|-----------|-----------|----------|---------------|
| Statement |           |          |               |

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. In this case, the design of the original scheme has been found acceptable. No further amendments or details were sought thereafter. The agent was informed that a temporary permission of 5 years would be supported due to the nature of the proposals.

**Report Dated: 04/03/2024**