

**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>2023/62/93783/E</b>                                                                                                    |
| Site Address:         | Batleyford Playing Fields, Huddersfield Road, Mirfield, WF14 0EE                                                          |
| Description:          | Use of land for siting of five storage containers, erection of drying room, recreational space and associated car parking |
| Recommending Officer: | Nicole Helliwell                                                                                                          |

**DECISION – Full Conditional Permission**

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

Kirsty Nicholls

***AUTHORISED OFFICER***

**Date:** 28-JAN-2025

## **1.0 INTRODUCTION**

- 1.1 Full planning permission is sought for the use of land for siting five storage containers, the erection of a drying room, recreational space and associated car parking at Batteyford Playing Fields, Huddersfield Road, Mirfield, WF14 0EE
- 1.2 The application site is situated on Urban Green Space under LP61 (Urban Green Space): Local Plan reference UG240.

## **2.0 SITE AND SURROUNDINGS**

- 2.1 The application relates to Batteyford Playing Fields which is situated off Huddersfield Road in Mirfield. The site is allocated as Urban Green Space within the Kirklees Local Plan Proposals Map. The wider area comprises a combination of residential and commercial properties of varying 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.

## **3.0 PROPOSAL**

- 3.1 The proposal seeks full planning permission for the use of land for siting five storage containers, erection of drying room, recreational space and associated car parking. The details of the proposal are summarised below:

### Recreational Space

- 3.2 The single storey building would have an overall length of approx. 9.93m, a depth of approx. 6.08m and an overall height of approx. 3.64m. The recreational space would be predominately faced in timber cladding for the external walls and would feature elements of black cladding.

### Storage Containers

- 3.3. The storage containers proposed would be faced in Pebble Grey (RAL 7032) for the external walls. Four of the storage containers would measure approx. 6.1m in length and approx. 2.44m in depth with an overall height of approx. 2.9m. The fifth storage container would measure approx. 9.15m in length and approx. 2.44m in depth with an overall height of approx. 2.9m.

### Drying Room

- 3.4 The drying room would be single storey in height and would be faced in timber cladding for the external walls. The structure would measure approx. 9.75m in length, approx. 3.05m in depth and would have an overall height of approx. 3.34m.

#### Car Park

- 3.5. The car park proposed would comprise 15 vehicle parking spaces to provide access to the buildings and storage containers.

### **4.0 RELEVANT PLANNING HISTORY**

- **2014/92573:** Siting of two storage containers and formation of car parking area. Planning application details | Kirklees Council – Conditional Full Permission
- **2001/90805:** Siting of 1 no. steel security container. Planning application details | Kirklees Council – Conditional Full Permission

### **5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme)**

#### Sport England

- 5.1 Sport England submitted a consultation response, dated 20<sup>th</sup> of February 2024, where they objected to the proposal on the basis that the proposed development would not accord with any of the exceptions to Sport England's Playing Fields Policy or with Paragraph 103 of the NPPF and requested the following information:

1. Information about how the proposal will support the canoe club and why the proposal is needed.
1. Clarification on whether the proposal is exclusively for the canoe club or whether parts of the proposal will also be used by the football club.
2. A scaled plan showing the layout of the proposal that clearly includes the adjacent football pitches (and any other sport pitches) including their safety margins. The plans should annotate the dimensions of the pitches and their safety margins. The plan should demonstrate no impact or impediment on the existing pitches and their 3m safety run offs.

- 5.2 The Football Foundation, acting as Sport England's technical advisors in respect of football facilities also confirmed that there is concern from West Riding Football Association and the Football Club regarding the containers and grasscrete impacting the club's existing pitches and asked the applicant to provide a pitch plan to demonstrate no impact or impediment on the existing pitches and their 3m safety run off.

5.3 A Supporting Letter (reference no. TP1124, dated 8<sup>th</sup> May 2024) was submitted by the applicant's agent. Sport England provided a further response dated 30<sup>th</sup> May 2025 which confirmed that additional information has been provided to address requirements 1 and 2. However, Sport England maintained their objection in relation to requirement 3 and confirmed that a scaled plan showing the layout of the proposal that clearly includes the adjacent football pitched including their safety margins would be required. In addition, the Football Foundation also commented that no further information had been submitted and therefore all previous concerns relating to the pitch and safety margins remain.

5.4 A plan titled 'Proposed Site Plan – Context' (reference no. 1102 Rev. 2, dated 05/06/2024) was submitted by the agent which shows the proposal in relation to the adjacent football pitches. However, Sport England provided a further response dated 13<sup>th</sup> August 2024, which confirmed that they maintain their objection as Football Foundation have raised the following matters since reviewing the new information:

1. A ball strike risk assessment, undertaken by a suitably qualified consultant, that examines the ball trajectory based on current and future levels of play for football and any other sports that are played, including current and also various alternative pitch layouts that could be achieved on the playing field.
1. If ball strike is identified as an issue, then details of the design, specification and layout of any ball strike mitigation (for example ball stop fencing) should be provided. This should also include details of how any ball strike mitigation will be managed and maintained. The applicant will need to demonstrate that any ball strike mitigation proposed does not impact on the pitches and the safety margins (depending on where it is being placed).
2. Details of what measures are proposed to ensure that the car park does not cause a health and safety issue for children retrieving balls. It may be that any ball stop mitigation proposed can address this issue also, however it needs to be specifically addressed.
3. Clarification that the proposal will allow unobstructed access through the car park for grass pitch maintenance from Kirklees Council and contractors.

5.5 On the 13<sup>th</sup> of September 2024, the agent directly liaised with Sport England to address their objection. On the 18<sup>th</sup> of September 2024, a ball strike assessment was provided along with a car park risk assessment and clarification of access to fields. Sport England responded to this information on the 19<sup>th</sup> of September 2024. They

confirmed that issues 1, 2 and 4 had been addressed, however, issue 3 remains outstanding. The Football Foundation commented that a simple fence around the perimeter of the car park would satisfy this.

- 5.6 On the 24<sup>th</sup> of September 2024, the agent provided a plan titled 'Proposed Fencing Drawing' (reference no. 0043-LGMH-XX-XX-DR-A-1000 Rev. P01, dated 24/09/2024) which displays a boundary treatment that would not inhibit access, has minimal impact upon visual amenity and does not cause a flood issue for the EA. However, Sport England responded on the 2<sup>nd</sup> of October 2024 confirming that the Football Foundation would prefer a full, continuous fence around the perimeter of the car park which would be sufficient to minimise health and safety issues for children retrieving balls entering the car park. As such, Sport England maintains their objection to the planning application if issues 1 to 4 are not fully addressed, or secured by way of a planning condition for issue 3.

#### KC Highways Development Management

- 5.7 KC Highways Development Management provided a consultation response dated 5<sup>th</sup> of March 2024. Officers raised concerns regarding the provision of off street parking, given that only 15 parking spaces would be provided on site and asked for further justification.
- 5.8 A supporting letter (reference no. TP1124, dated 8<sup>th</sup> May 2024) was submitted by the applicant's agent. The supporting letter confirmed that the access would be improved, cars will no longer damage the field and parking on the highway would be reduced. KC Highways DM reviewed this information in their response dated 13<sup>th</sup> of August 2024 and confirmed that proper justification for the proposed number of off-street parking spaces would be required and that the proposed parking numbers should be demonstrated to be sufficient to ensure vehicles will not need to park on the highway at this location.
- 5.9 The applicant's agent provided additional justification by email (dated 4<sup>th</sup> December 2024). KC Highways DM provided a response on 10<sup>th</sup> December 2024 confirming that Officers have no further objection to the proposals.

#### The Environment Agency

- 5.10 The Environment Agency provided a consultation response dated 1<sup>st</sup> of March 2024, which confirmed that they object to the application in the absence of an acceptable flood risk assessment.

- 5.11 A document titled 'Updated Flood Risk Assessment (in response to EA Objections)' (dated 09/05/2024) and a document titled 'Flood Storage Volume Mitigation' (dated 21/06/2024) were submitted to address the Environment Agency's previous comments. However, the Environment Agency in their response dated 4<sup>th</sup> of July 2024 confirmed that they still require the following information to remove their objection:
- Further detailed drawings including but not limited to plan, detail, and elevation drawings.
  - An assessment (qualitative or quantitative as appropriate) of where displaced flood water may go and what, if anything, could be impacted in a worst-case scenario.
  - More detailed maintenance regime (depending on Kirklees' views).
- 5.13 On the 9<sup>th</sup> of July 2024, the applicant's agent sent additional information to the Environment Agency by email. The Environment Agency provided a further response dated 12<sup>th</sup> of July 2024. Based on this information, specifically the section that assesses that 37m<sup>3</sup> loss of floodplain storage would result in a 1.2mm increase in flood depth across the local floodplain, the Environment Agency removed their objection to the proposal.

## **6.0 PLANNING POLICY:**

- 6.1 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).
- 6.2 The site is allocated as Urban Green Space on the Kirklees Local Plan Proposals Map (UG240). The site is also located within the Strategic Green Infrastructure Network.
- 6.3 Kirklees Local Plan (2019) 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 27** - Flood Risk
  - **LP 28** - Drainage

- **LP 30** - Biodiversity and Geodiversity
- **LP 31** - Strategic Green Infrastructure Network
- **LP 50** - Sport and Physical Activity
- **LP 52** - Protection and Improvement of Environmental Quality
- **LP 53** - Contaminated and Unstable Land
- **LP 61** - Urban Green Space

#### 6.4 National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published December 2024, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

#### 6.5 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

### 7.0 **PUBLIC/LOCAL RESPONSE:**

#### 7.1 The application was publicised by neighbour notification letters, which expired on 13<sup>th</sup> March 2024.

#### 7.2 As a result of the above publicity, one representation has been received. The comments made have been summarised below:

- The existing site plan is incorrect. The 20ft container indicated was positioned in contravention of the previous planning application - 2014/62/92573/E. The container should have been installed 20 meters further away from the site access gate as outlined in the approved plans.
- Condition 4 also stated that the containers should be painted green "to ensure that the containers harmonise with the surrounding environment"! Instead, the 20ft container arrived covered in graffiti, and still is 9 years later!
- Condition 3 stated that all containers should be removed from site, after 3 years - this hasn't happened 9 years later!

- My worry is that the applicants will once again ignore all planning conditions (and approved plans) and install what effectively will create an eyesore with no regard for the local residents.
- It would be more agreeable if the proposed development was 5-10 meters further away from the site access gate - the buildings would then have less of an impact on houses opposite.
- They would almost disappear from view behind the site boundary wall which slopes away towards the football fields.
- Can I ask that a litter bin be part of any approved development as the activities on site attract a lot of litter.

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

Sport England - Objection

KC Lead Local Flood Authority – No objection subject to recommended conditions

The Environment Agency - No objection subject to recommended condition

### **8.2 Non-statutory:**

KC Trees - No objection

KC Ecology – No objection subject to recommended condition

KC Highways Development Management - No objection

KC Environmental Health – No objection subject to the recommended conditions

## **9.0 MAIN ISSUES:**

- Principle of Development
- Urban Green Space/Playing Fields
- Visual Amenity
- Residential amenity
- Highway Safety
- Other matters
- Representations
- Planning obligations

## **10.0 APPRAISAL**

### **Principle of Development:**

- 10.1 Planning law requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise.

- 10.2 The application site constitutes part of an Urban Green Space allocation (ref. UG240) protected from development under Local Plan Policy LP61, unless specified exceptions can be met.
- 10.3 Kirklees Local Plan Policy LP61 does not allow for development proposals that would result in the loss of urban green space unless specific exceptions can be met. The policy states that: *“Development proposals which would result in the loss of urban green space (as identified on the Policies Map) will only be permitted where:*
- a. an assessment shows the open space is clearly no longer required to meet local needs for open space, sport or recreational facilities and does not make an important contribution in terms of visual amenity, landscape or biodiversity value; or*
  - a. replacement open space, sport or recreation facilities which are equivalent or better in size and quality are provided elsewhere within an easily accessible location for existing and potential new users; or*
  - b. the proposal is for an alternative open space, sport or recreation use that is needed to help address identified deficiencies and clearly outweighs the loss of the existing green space. The protection set out in this policy also applies to smaller valuable green spaces not identified on the Policies Map.”*
- 10.4 The application site forms part of a larger area of outdoor sports facilities which comprises public playing fields. The proposed development would be a water compatible use and would be in conjunction with the Pennine Canoe Club. The supporting letter confirms that the proposal would allow the storage of canoes, kayaks and equipment and would provide additional changing and coaching facilities for the club. Whilst the proposal would result in the loss of some urban green space, given that it would only affect a small area of the allocation, it is considered to have minimal impact on the wider urban greenspace site functionally and visually. Furthermore, the development proposed would help support an existing recreational use. Therefore, it is considered that the principle of development would be acceptable in accordance with LP61 of the Kirklees Local Plan and the National Planning Policy Framework.
- 10.5 Sport England were formally consulted on the proposed scheme. Sport England’s Playing Fields Policy is to oppose the granting of planning permission for any development which would lead to the loss of, or prejudice the use of, all/part of a playing field unless or more of the exceptions within the policy apply. Policy LP50 of the Kirklees Local Plan states that sport and leisure facilities will be protected.

- 10.6 Sport England initially objected to the proposal on the basis that the proposed development would not accord with any of the exceptions to Sport England's Playing Fields Policy or with Paragraph 103 of the NPPF (paragraph reference at time of writing response). Whilst revised information was provided to address their concerns, Sport England maintained their objection due to the Football Foundation raising concerns with the new information.
- 10.7 A ball strike assessment was provided along with a car park risk assessment and clarification of access to fields to address matters 1, 2 and 4. However, Sport England confirmed that matter 3 remains outstanding and that further details of what measures are proposed to ensure that the car park does not cause a health and safety issue for children retrieving balls is required.
- 10.8 The Football Foundation commented that a simple fence around the perimeter of the car park would satisfy this. A fencing plan was submitted showing a low level timber knee rail fence along the north-western boundary of the car park. However, on review, the Football Foundation stated that they would prefer a full, continuous fence around the perimeter of the car park. As such, Sport England maintains their objection to the planning application if issues 1 to 4 are not fully addressed, or secured by way of a planning condition for issue 3.
- 10.9 Officers consider that Sport England's objection is unreasonable and that the proposal would be acceptable without the need for a full, continuous fence along the perimeter of the car park. Officers consider that the timber knee rail fence proposed would prevent any health and safety issues for children receiving balls and would be acceptable in this regard. On this basis, whilst Sport England object to the proposed development, it is considered that the proposal would accord with Policy LP61 as there would not be any material loss of playing field provision.

### **Visual Amenity:**

#### **Recreational Space**

- 10.10 The single storey building proposed for recreational space would have an overall length of approx. 9.93m, a depth of approx. 6.08m and an overall height of approx. 3.64m. The structure would be predominately faced in timber cladding with elements of black cladding and would incorporate a flat roof form. Although the structure would have a large scale, it would be of a simple form and would not appear incongruous

from public vantage points given the significant scale of the site and its siting on lower ground. For these reasons, the proposed development is considered acceptable with regard to visual amenity.

#### Drying Room

- 10.11 The drying room would be single storey in height and would have an overall length of approx. 9.75m, an overall depth of approx. 3.05m and a maximum height of approx. 3.34m. The structure would be constructed from timber cladding and would incorporate a flat roof form. Although a flat roof generally constitutes poor design, the design of the unit is considered to be typical for such a use and would be acceptable in this regard. Whilst the structure would have a large scale, it would be of a simple form and would not appear incongruous from public vantage points given its siting on lower ground. On this basis, it is considered that the proposed development would not have any significant visual impact on the character and appearance of the surrounding area.

#### Storage Containers

- 10.12 The storage containers proposed would be faced in Pebble Grey (RAL 7032) for the external walls. The submitted plans confirm that four of the storage containers would be identically sized and would measure approx. 6.1m in length and approx. 2.44m in depth with an overall height of approx. 2.9m. The fifth storage container would measure approx. 9.15m in length and approx. 2.44m in depth with an overall height of approx. 2.9m. Due to the changes in topography, the storage containers would have limited visibility from public vantage points along Huddersfield Road and are not considered to have a significant impact with regard to visual amenity.

#### Car Park

- 10.13 The car park proposed would comprise 15 vehicle parking spaces to provide access to the buildings and storage containers. Although the proposal would alter the appearance of the site to a degree, it is considered that the alterations would not have a material impact on visual amenity.
- 10.14 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.

#### **Residential Amenity:**

10.15 The submitted plans confirm that no properties to the north, south and west of the site would be affected by the proposed development.

10.16 434 Huddersfield Road is a two-storey detached property located to the north-east and is sited on higher ground relative the application site. The submitted plans demonstrate that a distance of approximately 20m would be retained between the proposed development and the front elevation of the neighbouring property. However, due to the sufficient separation distance and the difference in levels, it is considered that the proposed works would not cause any additional overlooking, overbearing or overshadowing harm to the residential amenity of the neighbouring occupants, over and above the existing arrangements on site in accordance with Policy LP24 of the Kirklees Local Plan (b) and Paragraph 135(f) of the National Planning Policy Framework.

### **Highway Safety**

10.17 This application seeks approval for the use of land for the siting of five storage containers, erection of drying room, recreational space and associated car parking at Batteyford Playing Fields. A temporary permission was granted in April 2015 for the siting of two storage containers and formation of a car parking area (2014/92573). These proposals included the same point of access onto Huddersfield Road and 27 off-street parking spaces were shown with ample space for internal vehicle turning.

10.18 In relation to the current application, KC Highways did initially raise concerns regarding the provision of off street parking, given that only 15 parking spaces would be provided on site. However, the applicant's agent has since provided the following justification:

- The initial application that was approved had assumed a level of growth and it was thought that applying for a larger number to be refined down would be more straight forward than applying to increase.
- The initial application assumed that boat trailers would be required to be stored on site in the parking bays, this is no longer the case as alternate storage has been secured.
- The site has been in use for its intended purpose for over 4 years now, with an average weekly car parking requirement of 12 cars. Currently these vehicles are all parked on the main road.
- The application allows for 20% growth in use which based on present numbers, and a 4-year history, the Club thinks the proposed parking level is adequate and prudent and also reduces the level of on street parking meaning the application provides for significant

betterment in terms of both traffic flow and safety to the current 'as is' situation.

- 10.19 KC Highways Development Management have reviewed the information above and have confirmed that the proposal is acceptable. Therefore, it is considered that the proposal would not cause detrimental harm to the safe and efficient operation of the highway network, in accordance with Policies LP21 and LP22 of the Kirklees Local Plan, guidance within the Council's Highways Design Guide SPD, and Chapter 9 of the National Planning Policy Framework.

**Other Matters:**

Climate Change

- 10.20 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.

- 10.21 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

- 10.22 The site of the proposed development is on land which is potentially contaminated due to its former use. According to Council records the site is on an historic landfill (our site ref: 150/4), where there is the potential for ground gas migration. The application indicates that the drying room and recreational space will be constructed on concrete pads, raised 450mm above the current ground level as shown in the supporting drawing by LEVO (visuals) (dated 18/12/23) and as described in the Climate Change Statement. Given the nature of the construction, KC Environmental recommend a condition for unexpected contamination being encountered during the construction phase.

Electric Vehicle Charging Points

- 10.23 The proposal includes the provision for car parking and in an application of this nature it is expected that facilities for charging electric vehicles are provided. Approval under the Building Regulations may be required, and the applicant is advised to contact their Building Control Provider for further information in relation to Approved Document S.

#### Trees

- 10.24 The proposal does not appear likely to impact trees of amenity value enough to merit objection to the proposal. However, KC trees would advise not to use grasscrete or the soil cells that contain grass. As in experience the grass within the cells is only viable on sites that are very infrequently used (i.e. overflow car parking). For parking that is going to be frequently used, but needs to be permeable, resin bounded gravel would be worth considering.

#### Ecology

- 10.25 It is anticipated that the proposed development will have minimal impacts on ecological receptors, being already situated within a recreational ground, comprising of modified grassland. However, the operational phase of the development has the potential to cause indirect impacts to adjacent ecological receptors, including the woodland and watercourses, and as such, KC Ecology have confirmed that a lighting scheme should be conditioned, as part of any forthcoming consent. The agent has since confirmed that external lighting would not be proposed as part of the application and therefore, this condition is no longer deemed necessary.

#### Drainage

- 10.26 The proposed development is located within flood zone 3b (functional floodplain) where only 'water compatible' uses and essential infrastructure can be considered in accordance with National Planning Policy Framework. As the containers would be used for the canoe club, this is recognised as a water compatible use. The use of ground anchors or an enclosed fence is of paramount importance as should be set as a condition with details to come. Site flood and evacuations plans should also be submitted for the wider site. As such, KC Lead Local Flood Authority have no comment to make on surface water and their objection is removed subject to the recommended conditions.

#### Flood Risk

- 10.27 The Environment Agency's Flood Map for Planning shows that the site lies within Flood Zone 3b (functional floodplain) with a high probability of flooding from rivers and/or the sea. The application is for building

and container storage associated with an outdoor sport/recreation activity, which is considered to be a 'water compatible' land use in Annex 3 of the National Planning Policy Framework.

- 10.28 The Environment Agency initially objected to the proposal in the absence of an acceptable flood risk assessment. However, following the submission of additional information and given that the proposal on its own merits would not cause an increase in the overall flood risk, the Environment Agency have removed their objection to this proposal subject to the recommended condition.

#### Construction Noise

- 10.29 Construction noise can give rise to loss of amenity to neighbouring noise sensitive receptors. It is therefore necessary for a footnote to be imposed restricting the hours of operation for the site.

#### **Representations:**

- 10.30 One representation was received during the course of the application. The comments made have been summarised and addressed below:

- The existing site plan is incorrect. The 20ft container indicated was positioned in contravention of the previous planning application - 2014/62/92573/E. The container should have been installed 20 meters further away from the site access gate as outlined in the approved plans.

***Response:*** This matter would not constitute a material planning consideration. If you believe the development has not been carried out in accordance with the approved planning permission then you can submit a complaint to our enforcement team.

- Condition 4 also stated that the containers should be painted green "to ensure that the containers harmonise with the surrounding environment"! Instead, the 20ft container arrived covered in graffiti, and still is 9 years later!

***Response:*** This matter would not constitute a material planning consideration. If you believe the development has not been carried out in accordance with the approved planning permission then you can submit a complaint to our enforcement team.

- Condition 3 stated that all containers should be removed from site, after 3 years - this hasn't happened 9 years later!

**Response:** *If you believe the development has not been carried out in accordance with the approved planning permission then you can submit a complaint to our enforcement team.*

- My worry is that the applicants will once again ignore all planning conditions (and approved plans) and install what effectively will create an eyesore with no regard for the local residents.

**Response:** *The proposals potential impact on the appearance and character of the street scene has been assessed within the 'visual amenity' section of the report.*

- It would be more agreeable if the proposed development was 5-10 meters further away from the site access gate - the buildings would then have less of an impact on houses opposite.

**Response:** *The proposals potential impact to the neighbouring properties has been assessed within the 'Residential Amenity' section of the report.*

- They would almost disappear from view behind the site boundary wall which slopes away towards the football fields.

**Response:** *The proposals potential impact to the neighbouring properties has been assessed within the 'Residential Amenity' section of the report.*

- Can I ask that a litter bin be part of any approved development as the activities on site attract a lot of litter.

**Response:** *This matter would not constitute a material planning consideration.*

## **11.0 CONCLUSION:**

11.1 This application for use of land for the siting of five storage containers, the erection of a drying room, recreational space and associated car parking at Batteyford Playing Field 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 to be acceptable.

11.2 The NPPF has 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. In such circumstances it is considered that there are no

adverse impacts of granting planning permission which would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole, or that specific NPPF policies indicate development should be restricted. In such circumstances, the application is supported.

11.3 Sport England, a statutory consultee, have formally objected to the application. The LPA has sought to overcome these objections with the submission of further information to Sport England, but their objection is maintained. In these circumstances it is necessary to comply with the Town and Country Planning (Consultation) (England) Direction 2024 which sets out the applicable criteria and arrangements that must be followed for consulting the Secretary of State once the local planning authority has resolved to grant planning permission for certain types of development that are set out in paragraphs 3-8 of the Direction; this includes at paragraph 7 development purportedly involving the loss of a playing field; although the Local Planning Authority strongly dispute this. This being the case, the application was sent to the Secretary of State setting out that the LPA have 'resolved' to approve the application.

11.4 Within a letter dated 17<sup>th</sup> December 2024, the Secretary of State confirmed that they do not wish to call in the application and are agreeable for the LPA to determine the application. It is therefore recommended to progress this application in line with that recommended to the secretary of state in the LPA's consultation with them.

## **12.0 CONDITIONS**

**Recommendation: APPROVAL SUBJECT TO THE FOLLOWING CONDITIONS:**

**Decision Authorisation - Delegated Powers.** Within a letter dated 27<sup>th</sup> December 2024, the Secretary of State confirmed that they have decided not to call in this application and are content that the application should be determined by the local planning authority.

**Application Number:** 2023/93783

1. The development hereby permitted shall be begun within three years of the date of this permission.

**Reason:** Pursuant to the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

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, LP27, LP28, LP30, LP31, LP50, LP52, LP53 and LP61 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. The drying room hereby approved shall be faced in timber cladding for the external walls. The materials of construction shall thereafter be retained for the lifetime of the development.

**Reason:** This condition is necessary in the interest of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and the aims of Chapter 12 of the National Planning Policy Framework.

4. The recreational space hereby approved shall be faced in timber cladding for the external walls and would feature elements of black cladding as per the Proposed Elevations South and East drawing (reference no. 2100, dated 18<sup>th</sup> December 2023) and the Proposed Elevations North and West drawing (reference no 2101, dated 18<sup>th</sup> December 2023). The materials of construction shall thereafter be retained for the lifetime of the development.

**Reason:** This condition is necessary in the interest of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and the aims of Chapter 12 of the National Planning Policy Framework.

5. Notwithstanding the submitted plans and details, the storage containers hereby approved shall be faced in Pebble Grey (RAL 7032) for the external walls. The materials of construction shall thereafter be retained for the lifetime of the development.

**Reason:** This condition is necessary in the interest of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and the aims of Chapter 12 of the National Planning Policy Framework.

6. Notwithstanding the submitted plans and details, the parking area hereby approved shall be finished in resin bounded gravel. The materials of construction shall thereafter be retained for the lifetime of the development.

**Reason:** This condition is necessary in the interest of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and the aims of Chapter 12 of the National Planning Policy Framework.

7. Development shall not commence until a scheme detailing the provision of a flood warning system, arrangements for emergency access to the site and egress from the site to a place of safety (evacuation plans) for post development phase have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of how users are to be informed of the procedures to follow in the event of receiving a flood warning or in the event of a flood. The evacuation plans shall be implemented in accordance with the approved details and retained thereafter.

**Reason:** This pre-commencement condition is in the interest of the safety of future occupiers with regards to flood risk in accordance with LP27 of the Kirklees Local Plan and the requirements of the National Planning Policy.

8. Development shall not commence until a scheme detailing a flood risk assessment and method statement (including plans and cross-sectional diagrams), specifically concerning prevention of floating of storage containers so as not to increase flood risk downstream, has been submitted to and approved in writing by the Local Planning Authority. Agreed measures shall be installed prior to the containers being brought into use and retained thereafter.

**Reason:** This pre-commencement condition is necessary to ensure that adequate and sustainable systems of drainage are employed in accordance with LP27 of the Kirklees Local Plan and the requirements of the National Planning Policy.

9. Whilst the area within the red line boundary submitted with this application is labelled as functional floodplain, main river flood zone 3b, the use associated with these containers must be 'water compatible' as defined as a flood risk vulnerability classification in National Planning Policy Framework. Changes of use to 'less vulnerable', 'more vulnerable' and 'highly vulnerable' classifications are not permitted.

**Reason:** This condition is necessary to ensure the proposed development accords with LP27 of the Kirklees Local Plan and the requirements of the National Planning Policy.

10. 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. 196 and 197 of the National Planning Policy Framework.

11. The development shall be carried out in accordance with the information submitted in support of the application, including:

- D5 Planning – Updated Flood Risk Assessment (in response to EA Objections)
- Technical note - 2023/93783: Batteyford Playing Fields Flood Storage Volume Mitigation
- Email from Owen Phillips to Bev Lambert and Nicole Helliwell (Kirklees Council), 9 July 2024 at 2:50pm and the following mitigation measures they detail:
  - The cabins shall be raised to a minimum level of 450mm above ground level.
  - The void space beneath the cabins shall be maintained, unblocked and free of debris for the duration that development is physically in place.

The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

**Reason:** To reduce the impact of the development on offsite flood risk in accordance with LP27 of the Kirklees Local Plan and the requirements of the National Planning Policy.

**NOTE:** All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework. 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:** Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

**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 |
|-----------|-----------|----------|---------------|
|-----------|-----------|----------|---------------|

| <b>Plan Type</b>                                             | <b>Reference</b>          | <b>Revision</b> | <b>Date Received</b> |
|--------------------------------------------------------------|---------------------------|-----------------|----------------------|
| Location Plan                                                | 1000                      | 2               | 15/01/2024           |
| Existing Site Plan                                           | 1009                      | 2               | 15/01/2024           |
| Proposed Floor Plans – Ground                                | 1100                      | 4               | 15/01/2024           |
| Proposed Site Plan                                           | 1101                      | 4               | 15/01/2024           |
| Proposed Site Plan – Context                                 | 1102                      | 2               | 15/01/2024           |
| Proposed Elevations South & East                             | 2100                      | 3               | 15/01/2024           |
| Proposed Elevations North & West                             | 2101                      | 3               | 15/01/2024           |
| 3D Visuals                                                   | 9000                      | 4               | 15/01/2024           |
| 3D Visuals                                                   | 9001                      | 2               | 15/01/2024           |
| Proposed Fencing Drawing                                     | 0043-LGMH-XX-XX-DR-A-1000 | P01             | 27/09/2024           |
| Supporting Letter                                            | TP1124                    | -               | 15/01/2024           |
| Updated Flood Risk Assessment (in response to EA Objections) | -                         | -               | 09/05/2024           |
| Flood Storage Volume Mitigation                              | -                         | -               | 21/06/2024           |
| Football Ball Strike Assessment                              | LSUK.24-0580_FBRA         | 2.0             | 13/09/2024           |
| Football Car Park Risk Assessment                            | FRM-Site-001              | 3               | 13/09/2024           |
| Climate Change Statement                                     | -                         | -               | 15/01/2024           |

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local 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. The Case Officer undertook negotiations with the agent to secure amendments to the scheme following comments from KC Highways Development Management, the Environment Agency and Sport England. Additional information was provided which was considered acceptable in this regard.

Within a letter dated 27th December 2024, the Secretary of State confirmed that they have decided not to call in this application and are content that the application should be determined by the local planning authority.

**Report Dated: 16/01/2025**

