

**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:	2024/62/90346/E
Site Address:	Future House, Pheasant Drive, Birstall, Batley, WF17 9LT
Description:	Change of use to Class B2 for use as industrial transport yard, with associated new office building, new fencing including new pedestrian and vehicular gates, widening of vehicular access, including re-surfacing of yard and access threshold, and new lighting to yard
Recommending Officer:	Edward Cheseldine

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: 24-SEP-2024

Officer Report

2024/90346 - Future House, Pheasant Drive, Birstall, Batley, WF17 9LT

Site Description

The site is a commercial yard in Birstall. During the Officers site visit it was noted that the previous building on the site had been demolished and the site was being resurfaced. There were no buildings present on site.

Access is currently formed off Pheasant Drive. The site sits amongst other commercial/industrial sites, some of which contain large warehouses. The site falls within a Priority Employment Area (PEA).

Proposal Description

The application is seeking planning permission for a change of use to Class B2 for use as industrial transport yard, with associated new office building, new fencing including new pedestrian and vehicular gates, widening of vehicular access, including re-surfacing of yard and access threshold, and new lighting to yard.

The office building will be 12.00m(w) x 6.00m(d) x 6.85m(h). The building will be two-storey in height, it will be platinum grey on the ground floor and grey rock on the first floor.

The site will also contain 19 staff car parking spaces, including tandem spaces.

The remainder of the site will be used for the storage of HGV vehicles.

The site will be secured with a green mesh fence that will be ~1.90m in height. A cantilever gate will be installed which will be ~10.00m wide, to accommodate the new vehicle access.

Consultations Responses

KC Highways DM – No objection, subject to conditions relating to an Operational Management Plan being submitted and approved in writing by the Local Planning Authority.

KC Environmental Health – No objection, subject to ground contamination conditions conditions.

The Coal Authority – No objection, subject to ground contamination conditions.

KC Crime Prevention – No objection.

Negotiations/Amendments

Further details were requested regarding the operational management of the site in relation to the use of HGVs.

Relevant Planning History

None relevant.

Public Representations

Neighbourhood notification letters were distributed to advertise the application, which expired on the 28 March 2024. As a result of the publicity, there were no representations.

Policy & Legislation

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is within a Priority Employment Area within the Kirklees Local Plan Proposals Map.

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

Kirklees Local Plan Policies

- LP 1 – Achieving sustainable development
- LP 2 – Place shaping
- LP 8 – Safeguarding employment land and premises
- LP 13 – Town Centre Uses
- LP 21 – Highways and Access
- LP 22 - Parking
- LP 24 – Design
- LP 30 – Biodiversity
- LP 52 – Protection and improvement of environmental quality

Kirklees Council has adopted supplementary planning guidance on highway design which carried full weight in the decision-making process. Policy is set out in the Highway Design Guide Supplementary Planning Document (2019).

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th December 2023, and the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 6 – Building a strong, competitive economy
- Chapter 7 – Ensuring the vitality of town centres
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making Efficient Use of Land
- Chapter 12 – Achieving well-designed places and beautiful 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
- 1) Impact on visual amenity
- 2) Impact on residential amenity
- 3) Impact on highway safety
- 4) Environmental matters
- 5) Conclusion

Principle of development:

The site is a Priority Employment Area in the Kirklees Local Plan Proposals Maps (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.

Priority Employment Areas are established sites of businesses and industry that warrant the protection from certain change of use classes. The Kirklees Local Plan seeks to develop a strong thriving economy by growing businesses

through the provision of land necessary for growth. Policy LP8 of the Kirklees Local Plan safeguards uses in Priority Employment Areas, by promoting development that falls under the land's current use and uses designated within the Local Plan Glossary.

In terms of this application, the proposal is for a change of use to Class B2 for a use as an industrial transport yard. The Local Plan Glossary defines employment use classes that are acceptable within Priority Employment Areas, under which B2 (general industry) is specified as an employment generating use which is suitable for sites within Priority Employment Areas. The site will be used as a holding facility for long-haul vehicles used for tramping, the use would not fall outside of the scope of what is considered to be a commercial industry. The Local Plan glossary states commercial activities are employment generating uses. Therefore, the principle of the change of use within such an area is acceptable in terms of according with the purposes of LP8.

The site will also accommodate an office building.

Offices are defined in the NPPF as main town centre uses and are subject to Policy LP13 in the Kirklees Local Plan. Part B of Policy LP13 states that proposals which come forward for main town centre uses which are located outside of the defined centre boundaries will require the submission of a Sequential Test. For offices, this shall be the extent of the centre boundary. Main town centre uses shall first be located in the defined centres, then edge of centre locations and only if there are no suitable sites shall out of centre locations be considered.

The office is to support the operations of the site. A prefabricated building will be erected on the site, spread over two levels. The building is 12.00m(d) x 6.00m(w) The building includes amenities for respite of staff including for those tramping. Office space is confined, it will be ancillary to the functions of the site and as such is not considered a main town centre use.

The principle of development is therefore acceptable. It will now be assessed if the application is acceptable in terms of its visual and residential amenity impact, highway safety and any environmental matters.

Impact on visual amenity

Local Plan Policy LP24 states development should respect and enhance the character of the landscape.

The wider area is an industrial landscape, which is dominated by commercial and retail sites that are operating within warehouses. Sites are generally separated from the connecting roads by security fencing.

In terms of visual changes, there will be the placement of the office building. It is rectangular in footprint. The building will be rendered on the ground floor in a platinum grey and clad with panelling on the first floor in a grey rock colour.

Window frames will be anthracite grey. The appearance of the building is utilitarian, it fits within the context of the site and wider area.

In terms of position, the prefabricated building is set to the north-east corner of the site. The unit is considered to be a small in scale, it being 12.00m(w) x 6.00m(d) x 6.85m(h). It is set 1.00m away from the public footpath which is separated by the perimeter fence. In consideration of the office block, the placement is acceptable. The scale of the unit is relatively small, when considered against the larger warehouses in the area. Whilst being prominent, the materials of the unit will soften its appearance.

In terms of the boundary treatment, the fencing is not uncommon within industrial estates such as this. A green colour will be used which will soften the appearance of the site.

The new additions and alterations are considered to have a neutral impact on the prevailing industrial landscape and accord with Policy LP24 of the Kirklees Local Plan.

Impact on residential amenity

Policy LP24 of the Kirklees Local Plan states good design should be at the core of all proposals, including of which is that design 'provide a high standard of amenity for future and neighbouring occupiers.

In this instance, there are no nearby surrounding residential dwelling that will be affected by the proposal.

Impact on highway safety

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.”*

Policy LP21 of the Highways and Access states all proposal should ensure the safe and efficient flow of traffic within the development and on the surrounding highway Network.

The operation includes the use of vehicles that operating as long-haul tramping HGVs. The site will need 24hour access. Due to the nature of the operation, vehicles leave the site for long periods throughout the week. KC Highways assessed the submitted information and plans. They concluded an Operational Management Plan should be submitted, that includes details of how Heavy Goods Vehicles will be parked and managed to ensure there is no overspill Heavy Goods Vehicle parking on the public highway. In the event that planning permission is approved, it is recommended that this is secured via condition.

Environmental Matters

Contaminated Land

The site is situated on land identified as potentially contaminated, old chemical works, industrial estate and landfill (our site ref: 63/2). The site is surrounded by other identified possible contaminated sites and is close to two former landfill sites Leeds Road, Birstall ore re: 76/2, circa 280m E and Leeds Road, Howden Clough, our ref: 142/2, circa 330m S.

In support of the application a Coal Mining Report by the Coal Authority, dated the 6th of September 2023 has been submitted. The report informs that the site is likely underlaid with shallow coal deposits and possible workings which have associated spontaneous combustion and mine gas risk, this requires further investigation and intrusive investigations are required. In the event that planning permission is approved, it is recommended that this is secured via condition.

Coal Mining Legacy

The site is in a Coal Authority high risk development area. The Coal Authority concurs with the recommendations of the Phase 1 Desk Study Report & Coal Mining Risk Assessment that coalmining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site.

Accordingly, in the event that planning permission is approved, it is recommended that conditions relating to intrusive investigations and remediation works if necessary are added to any decision.

Electric Vehicles Charging Points

The installation of EV charging points are covered by Building Regulations, it is not considered that an additional restriction to the regulation should be implemented.

Ecology

The application was submitted before the arrival of Biodiversity Net Gain for minor sites. However, the proposal should comply with the purposes of LP 30. The site does not fall within an SSSI, there will not be a loss of habitat from the construction, and neither would it be considered that the provision of a habitat would lead to a suitable area for wildlife, therefore a net gain is not required.

Conclusion

The application for a change of a change of use and alterations at Future House, Pheasant Drive, has been assessed against relevant policies in the

development plan as listed in the policy section of the report, the National Planning Policy Framework, Kirklees Local Plan and other material considerations. Given the acceptable principle, design and lack of harm, the proposed development is considered to be 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.

As set out above, 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 - 2024/90346

Officer Recommendation: Approval

Reasons for Approval:

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

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.

1. 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 to ensure the satisfactory appearance of the development on completion, and to accord with Policy LP24 of the Kirklees Local Plan, and the aims of the National Planning Policy Framework.

2. No development shall take place until an Operational Management Plan has been submitted and approved in writing by the Local Planning Authority. The Plan shall include details of how Heavy Goods Vehicles will be parked and managed to ensure there is no overspill Heavy Goods Vehicle parking on the public highway. The plan so approved shall be implemented before the development is brought into use and retained thereafter.

Reason: To ensure a suitable access and layout in the interests of highway safety and in accordance with Policies LP21 and LP22 of the Kirklees Local Plan.

3. No development shall commence until;

a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;

b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

Reason: 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.

4. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for

approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: To ensure 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.

5. Groundworks shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.

Reason: 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.

6. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition (6) groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.

Reason: 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.

7. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition (7) further groundworks shall not commence until a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

Reason: 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.

8. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition (8). In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered [in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report] is identified or encountered on site, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

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

9. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Verification Report by a suitably competent person shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the remediation measures have been completed for the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Verification Report in respect of those remediation measures has been approved in writing by the Local Planning Authority.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 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.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location plan	LP	-	07 February 2024
Existing site plan	KH855 001A	RevA	07 February 2024
Proposed site plan	KH855 101	-	07 February 2024

Grouped plans and elevations	E10630-02	RevA	07 February 2024
Existing and proposed elevations	KH855-102	-	07 February 2024
Proposed floor plans	E10630-01	RevC	07 February 2024
Proposed pedestrian gate	15553 2	-	07 February 2024
Proposed cantilever gate	15553 1	-	07 February 2024
Point load diagram and typical section through	E10630-03	-	07 February 2024
Swept path diagram	AMA-22869-ATR001	-	06 June 2024
Phase 1 Desk Study Report & Coal Mining Risk Assessment (CMRA)	-	-	28 June 2024
Coal Authority Search	25020725	-	07 February 2024
Security fencing technical document	-	-	07 February 2024
Climate change statement	CCS	-	07 February 2024
Design & access statement	DAS	-	07 February 2024

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application.

Further details were requested regarding the operational management of the site in relation to the use of HGVs.

