Robert Halstead

Chartered Surveyors & Town Planners

N.C. Willock MRICS MRTPI

Office G of H, Bridge Mills, Huddersfield Road, Holmfirth, HD9 3TW

Planning Development

Planning Statement: Holmfirth Tech, Huddersfield Road, Holmfirth, HD9 3AR

LPA Ref: 2023/62/93106/W

Introduction

Planning permission is being applied for the variation of conditions 2 (Car Park Management Plan), Condition 4 (opening hours) and 6 (Sustainable Travel Statement) and the removal of condition 7 (car park re-surfacing) at the above site in respect of the change of use approval.

It should be noted that the Council's decision notice contains two condition 6's. It is assumed that this has been done in error. To avoid any doubt, the first condition 6 relates to Sustainable Travel Statement and the second condition 6, or as referred to in this application condition 7, relates to the car park re-surfacing.

Condition 2

This states:

Within three months from the date of this permission, a Car Park Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Car Park Management Plan shall include details of:

- *The control of use of the car park being restricted to permit holders only and details of signs indicating this.*
- *The marking out of the car park and indication of what spaces are available to the shared authorised users.*
- *The number and location of accessibility spaces.*
- *The location and number of cycle parking spaces.*
- *Management of drop-off and pick-up and measures to remove this from the car park.*
- *Other means to reduce the number of vehicles using the narrow access road.*
- *Dissemination of information for centre users on sustainable travel options and locations of town centre public car parks.*
- *Mechanism for review of the car park management plan.*

The development shall thereafter be operated in accordance with the approved Car Park Management Plan.

Reason: *To ensure the site can be made safe and accessible and in the interests of highway safety, to ensure pedestrian safety and in the interests of residential amenity, and to accord with LP21 and LP22 of the Kirklees Local Plan, Chapter 9 of the National Planning Policy Framework and Policy 11 of the Holme Valley Neighbourhood Development Plan.*

New wording of condition 2

The proposals are to vary the wording as follows:

The use of the car park, identified on plan ref: (23227)10_Site Layout Plan shall operate in accordance with the measures contained in the Car Park Management Plan by Robert Halstead Chartered Surveyors & Town Planners dated May 2024, and shall thereafter be retained.

Rationale for varying condition 2

The Tech is content to operate a Car Park Management Plan in principle (and already does so as will be explained), however the issues with this condition are numerous as explained below:

1) The condition as currently worded would abrogate pre-existing use rights relating to existing and historic use of the car park (when it was a Technical College), by attempting to restrict usage to permit holders only. The planning application for the change of use only related to a limited number of changes to the existing mix of uses and was not for a wholesale change of use of the building.

2) Access to and from, and use of the car park (for vehicles and pedestrians) has not been previously restricted in association with its existing lawful use rights (e.g. through previous planning conditions) and therefore in the event of enforcement of any breach of this condition, the LPA would need to follow established case law [1], which would not permit the abrogation of existing lawful use rights.

3) Reference in the condition to "Management of drop-off and pick-up and measures to remove this from the car park" is also unacceptable for the same reasons – i.e. access to and from the Tech car park has never been previously restricted.

4) Moreover, with reference to the Travel Survey accompanying this application at Appendix E, 19% of those surveyed said they had a disability, meaning they require the disabled access to the rear of the building. A further question 'Do you park at The Tech to use the rear entrance specifically to access the lift for all floors?' confirmed that 29% of users / visitors rely on the rear access to the building.

5) At least two businesses depend on disabled access, including the Barclays Bank mobile drop-in centre. One of tenants specifically chose tech because of ease of access for disabled. The Tech cannot therefore afford to lose businesses due to lack of disabled access.

6) For less mobile / disabled visitors (and those with toddlers), they can't access the front entrance due to steps, and can't park to front due to double yellow lines. The alternative is to park elsewhere which is not only inconvenient in terms of distance. The route from the Co-op car park for example, there are no dropped kerbs other than the one next to the long stay car park entrance, and getting to / from there with a push chair or wheelchair would be impossible

[1] *Mansi v Elstree RDC (1965) 16 P. & C.R. 153*

because of the electric boxes and the telegraph post. The risk of injury using this route is probably far higher than using the ramp.

7) The ramp is also used by A & DP's staff and their visitors as well as the occupants of 144, 146 and148, and visitors and trades people who need to access their houses.

8) The reasons for the condition *'to ensure the site can be made safe and accessible and in the interests of highway safety'* is also erroneous unfortunately, as the recent change of use application was retrospective and there is no actual evidence of any highway safety issues with the current (and therefore approved) uses of the building, or that the access is 'unsafe' and therefore needs to be 'made safe'. The personal injury accident record for the junction with Huddersfield Road reveals no accidents in the past five years for example.

9) Events often involve bulky resources and dropping things off etc so limitations would affect how user-friendly the Tech would be.

10) Moreover, the requirement of the condition to "reduce the number of vehicles using the narrow access road" is again erroneous as it is not based on any evidence that there is an existing problem, or that traffic levels are currently unacceptable. In this regard, the Car Park Survey (see Appendix B) undertaken between 7th and 13th May (Tuesday to Monday) [2] demonstrates the following in summary:

    a) Numbers of vehicles entering and leaving the site range between zero and four movements per hour, including in the PM Peak period. These numbers are very low and indicate the risk to safety, including that of two cars meeting one another, is extremely low and of no material consequence in terms of highway safety.

    b) Clearly there are a number of cars arriving pre-9.30am i.e. before the surveys were first conducted on each day, however at this time the traffic is highly likely to be one way (i.e. arrival) and therefore poses minimal risks of two cars meeting on the ramp, or conflict with other road users (for example queuing on the ramp and overspilling on to the highway).

    c) In terms of parking capacity, at no point during the surveys had the car park reached within less than 8 spaces of the car park's capacity of 32 spaces (i.e. maximum of 24 but as low as 11 at times).

11) Finally, there is no actual evidence of a problem. The car park does not have significant problems with unauthorised users and its hidden nature behind the buildings assists this. Nevertheless, restrictions are already in place now: signs are in place informing the car park is for users of the Tech only, and a scheme is in place with Flash parks, informing unauthorised users that If they park there, penalty notices will be issued. The Tech however reports no problems with persistent offenders.

The proposed Car Park Management Plan (Appendix A) accompanying this application and proposes the following in summary:

- Signage (as existing) at the entrance and throughout the car park informing drivers that the use of the car park is for users of the Holmfirth Tech only.

[2] Surveys are incomplete for 11th May and did not take place on 12th May

- The Tech to continue its contract with Flash Park, including numerous signs as shown in the Car Park Management Plan, stating that the car park is a controlled parking area on private property and that parking charges will be levied (£100) for unauthorised users.

- Regular surveys of car registration plates take place and matching these with legitimate Tech users, to ensure unauthorised parking is reduced and eliminated wherever possible.

- The marking out of the car park will be carried out in accordance with the proposed layout plan ref: (23227) 10 (Appendix C) and will be maintained thereafter. The number and location of accessibility spaces is identified on this plan, together with the location and number of cycle parking spaces.

- In terms of the dissemination of information for centre users on sustainable travel options and locations of town centre public car parks, information will be provided in literature & posters within the Tech (on information boards / walls etc) together with content on the Tech's website, detailing available bus routes and timetables, and other available town centre car parks.

- A mechanism for review of the Car park Management Plan will be in the form of an annual review by the Tech's Board of Trustees.

In summary, Holmfirth Tech is content to operate in full accordance with the operational details in the proposed Car Parking Management Plan, through a variation to the wording of the relevant planning condition.

Condition 4

This states:

The use hereby permitted shall not be open to customers outside the hours of:

- *Monday to Saturday: 08:30 – 21:00*
- *Sunday and Bank Holidays: 09:00 – 17:00*

And there shall be no deliveries to, or dispatches from the premises outside of these hours.

Reason: *To ensure that the proposed use(s) does not give rise to the loss of amenity to nearby residential properties, by reason of noise or disturbance at unsociable hours, to accord with the aims of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.*

<u>New wording of condition 4</u>

The proposals are to vary the wording as follows:

The use hereby permitted shall not be open to customers outside the hours of:

- *Monday to Thursday 08:30 – 21:00*
- *Friday and Saturday: 08:30 –* ***23:00***
- *Sunday and Bank Holidays: 09:00 –* ***19:00***

And there shall be no deliveries to, or dispatches from the premises outside of these hours.

Rationale for varying condition 4

The revised opening hours on Fridays and Saturdays are to provide a greater level of flexibility for The Tech when specific events are taking place within Holmfirth. These include events such as the Festival of Folk and the Film Festival, during which, the Tech host a number of events. For the vast majority of time, The Tech will only open during the previously approved hours, but the extension to 23:00 hrs on Fridays and Saturdays will allow The Tech to continue supporting and accommodating a handful of local events each year.

The extension of opening hours on Sundays and Bank Holidays to 19:00 will allow more time for groups and individuals who have booked out the rooms during the afternoon to tidy up and clean the spaces, ready for the next users.

Condition 6

This states:

Within three months from the date of this permission, a Sustainable Travel Statement shall be submitted to and approved in writing by the Local Planning Authority. The sustainable travel statement shall include measures to improve and encourage the use of sustainable transport. The measures will include as a minimum:

- *the provision of bus information and sustainable transport routes in literature and on the development's websites;*
- *information provided in literature and on the development's web site concerning the use of car sharing;*
- *the introduction of working practices to reduce travel demand;*
- *the provision of on-site cycle facilities and information.*

The Sustainable Travel Statement shall include details of when these measures will be introduced. To support the promotion of the use of sustainable modes the sustainable travel statement will also include how the promotion of sustainable travel will be managed; targets aimed at lowering car use, particularly single occupancy trips, from/to the site and how the travel plan statement and its objective of more sustainable travel will be promoted. The approved sustainable travel statement shall thereafter be retained throughout the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.

Reason: *To comply with the Council's sustainability objectives and to accord with Chapters 9 and 14 of the National Planning Policy Framework, Policy 11 of the Holme Valley Neighbourhood Plan and Policies LP20 and LP22 of the Kirklees Local Plan.*

New wording of condition 6

The development shall operate in accordance with the measures contained in the Sustainable Travel Statement by Robert Halstead Chartered Surveyors & Town Planners dated May 2024, and shall thereafter be retained.

Rationale for varying condition 6

There are two key concerns with the imposition of this conditions as worded:

1) The Tech is a not-for-profit community run building and whilst it rents space out to various businesses, individuals and other community organisations, the Tech is not the 'employer' of these users of the building, and so compliance with the clause "the introduction of working practices to reduce travel demand" is not actually possible for the Tech to control in terms of how these businesses and groups operate with regards to sustainable travel. The Tech will, however, *encourage* sustainable travel and practices among its limited volunteers and employees (1FT and 1 PT), and the wider users of The Tech, and these are outlined in the accompanying Sustainable Travel Statement. It can only 'encourage'.

2) The second reason is that the Tech is a minor category development positioned within Holmfirth town centre, and so it respectfully appears unnecessary and disproportionate to impose such a condition upon a scheme because:

   (a) This 'Travel Plan' style condition should only be imposed on major category developments (the Kirklees validation checklist only requires Travel Plans for commercial sites of new floorspace over 1,000 sq.m or of the site area is over 1 hectare). This site is falls significantly below these thresholds.

   (b) The building is in a sustainable location whereby alternative transport mode choices are more likely, and multiple purpose trips are also more likely.

   (c) The change of use proposals only needed permission in part – many of the uses were already longstanding and lawful.

Notwithstanding the above, Holmfirth Tech have recently carried out a Travel Survey amongst visitors and those business and other services using space at the Tech (See Appendix E). The key results are summarised below:

- 15.3% of people normally travel to The Tech by alternative modes of transport including walking, cycling or by bus.

- 25.4% of people who do travel to The Tech by car, park in places other than The Tech car park including Crown Bottom, Huddersfield Road, and the Bus Station car park.

- 44.9% of people travelled to The Tech with one or more people the last time they visited.

- 53.4% of people visiting The Tech link their trips with doing other things within Holmfirth including shopping, visiting a hairdressers or beauticians, and meeting up with friends.

- 19.2% of people using The Tech have a disability or have difficulty using the stairs e.g. they have a pram.

- 28.8% of people park in The Tech car park to specifically use the rear entrance to access the lift.

- Many people who do use The Tech car park, do so because they have lots of equipment with them for either work, music lessons or to run classes etc, or because they have mobility issues.

Direct access to the lift from the car park entrance is necessary and essential for many visitors of The Tech.

In summary, 15.3% of people visiting The Tech are already using sustainable modes of transport to get there and 44.9% of people who do travel by car, travelled with one or more people the last time they visited, which also makes those journeys more sustainable. 53.4% of people visiting The Tech are linking their trips with a visit into the centre of Holmfirth. This is positive in terms of sustainability and the local economy. Finally, many people who do use The Tech car park, do so, either because they have a disability or difficulty using the stairs (19.2%), or because they have a lot of equipment with them. In both case, people need direct access to the list at the rear of the building.

The Sustainable Travel Statement (Appendix D) shall include details of when these measures will be introduced. To support the promotion of the use of sustainable modes the sustainable travel statement will also include how the promotion of sustainable travel will be managed; targets aimed at lowering car use, particularly single occupancy trips, from/to the site and how the travel plan statement and its objective of more sustainable travel will be promoted.

To be addressed as part and parcel of the above.

Condition '7' (mislabelled as Condition 6 in the decision notice) states:

Within three months from the date of this permission, the approved vehicle parking areas and areas to be used by pedestrians shall be surfaced and drained in accordance with the Communities and Local Government, and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or superseded, and thereafter maintained throughout the lifetime of the development.

Reason: *In the interests of highway safety and to achieve a satisfactory layout, to mitigate flood risk and in accordance with LP21 and LP22 of the Kirklees Local Plan and Policies within Chapter 14 of the National Planning Policy Framework.*

<u>Rationale for removing condition 7</u>

This application seeks to remove this condition entirely for the following reasons.

1) Most importantly, Holmfirth Tech Ltd is an exempt charitable Community Benefit Society (CBS). As such, their finances are extremely tight. [3]

   As a not-for-profit organisation, the cost of carrying out the works to the vehicle parking areas, are incredibly high. Running costs of the building have already trebled over the last year and The Tech only managed to survive last winter due to local generosity and grants from the Holme Valley Parish Council and West Yorkshire Combined Authority, which helped replace the boiler. As can be seen on their website, they are raising funds to help with repairs and refurbishments to the building itself, which is a Grade II listed building and there is consequently a principal duty to preserve the building.

   Recent improvements, for example on the toilets, kitchen and rock room are being carried out with the aid of grants from the Parish Council and donations. Other short to medium terms

[3] The difficulty for the Tech in funding improvements (even if they were deemed to be necessary) is acknowledged by the owner of no.142 in their letter of representation on the previous planning application.

priorities are roof repairs and new windows, however the Tech needs to generate income to be able to invest further in the building fabric.

The Tech obtained the following quotes for car park resurfacing and associated works (See Appendix F):

Car Park Re-Surfacing	£29,740 + VAT
Drainage and Tree Works	£35,640 + VAT
Tree Removal	£1200 + VAT
Total	£66,580 + VAT

These costs associated are simply financially unviable for the Tech and the LPA's retention and enforcement of this condition would therefore most likely force the closure of The Tech.

Moreover, unless building's use is increased to the levels proposed in its Business Plan, the Tech will not be financially viable and the community-based venture will fail. Finding an alternative use for this large and prominent listed building in the town centre will be difficult, and there is a consequent risk it may fall into disrepair and dereliction.

This would be a huge tragedy for local businesses and community groups who rely on being able to use The Tech for their work, meetings, groups, and events.

2) The applicant rejects the notion that the car park is in a poor condition. Whilst its tarmacked surface is worn in places, it is even and in a perfectly safe and usable state.

3) As stated elsewhere in this statement, this is not a new development proposing a new car park, and the change of use application was only required to sweep up a few uses that previously did not have the benefit of planning permission. The NPPF [4] requires LPA's to consider the tests for planning conditions – i.e. first of all, would planning permission have been refused for this development without this condition? We respectfully suggest not, because of the above reasons, and also because the tests of *reasonableness* and *necessity* do not appear to be fulfilled by the imposition of this condition.

4) Not all the car park is owned by Tech and so any re-surfacing works to just part of the car park would look incongruous and disjointed.

5) It is likely there would be root damage to existing mature tree removal in the event the existing car park surface needs to be excavated and replaced. This may risk the long term health of these trees, requiring their removal, to the detriment of visual amenity and biodiversity.

6) The applicant is also confused as to why the condition refers to 'Guidance on the permeable surfacing of front gardens (parking areas),' and presumes this was a drafting error.

The requirement to re-surface the car park is therefore considered to be unreasonable and unnecessary in accordance with the tests for the imposition of planning conditions, and would most likely bankrupt the Tech from a viability perspective.

[4] Paragraph 55

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