

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 73

**DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS TO
CARRY OUT DEVELOPMENT WITHOUT COMPLIANCE WITH PLANNING
CONDITIONS PREVIOUSLY ATTACHED**

Reference No:	2024/70/91458/W
Site Address:	Holmfirth Tech, 142 , Huddersfield Road, Holmfirth, HD9 3AR
Description:	Variation of conditions 2 (Car Park Management Plan), 4 (opening hours) and 6 (Sustainable Travel Statement) and removal of condition 7 (car park re-surfacing) on previous permission 2023/93106 for change of use of Adult Education Centre (Class F1(a)) to a mixed-use community facility to include use classes E(a) to E(g)(i), F1(a), F1(b), F1(e) and F2(b) (part retrospective) (Listed Building within a Conservation Area)
Recommending Officer:	Katie Chew

DECISION – Variation of Conditions - Approved

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: 17-Dec-2024

Officer Report

Site Description:

Holmfirth Tech, 142, Huddersfield Road, Holmfirth, HD9 3AR

The application site relates to an existing substantial two-storey stone built building with accommodation also provided within the basement. The building is in Jacobean Gothic Style with pitched faced coursed stone and ashlar dressings. The building is located on the corner of the A6024 Huddersfield Road and Bridge Lane, with access to the site available via a narrow driveway between the north elevation of the building and the adjacent row of terrace properties (nos. 142-150 Huddersfield Road). The driveway leads to a small car park to the rear of the building.

The site is located approximately 30m from the Holmfirth Town Centre boundary.

To the north and south-west are residential dwellings, to the east adjoining the site is a commercial property and to the south is Holmfirth Fire Station.

The site is located within Holmfirth Conservation Area and relates to and is adjacent to Grade II Listed Buildings.

Description of Proposal:

The application seeks consent for the variation of conditions 2 (Car Park Management Plan), 4 (opening hours) and 6 (Sustainable Travel Statement) and removal of condition 7 (car park re-surfacing) on previous permission 2023/93106 for change of use of Adult Education Centre (Class F1(a)) to a mixed-use community facility to include use classes E(a) to E(g)(i), F1(a), F1(b), F1(e) and F2(b) (part retrospective) (Listed Building within a Conservation Area).

Condition 2 of application 2023/93106 states the following:

'2. 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’.*

The proposed alterations include the variation of wording to Condition 2 to:

‘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’.

The applicant has provided justification for this revised wording within the submitted Planning Statement. The rationale for varying condition 2 includes:

1. The condition as currently worded would abrogate pre-existing use rights relating to existing and historic use of the car park 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.
1. Access to and from, and use of the car park has not been previously restricted and therefore in the event of enforcement of any breach of this condition, the LPA would need to follow established case law which would not permit the abrogation of existing lawful use rights.
2. Reference in the condition to *‘Management of drop-off and pick up and measures to remove this from the car park’* is unacceptable for the same reasons – access to and from the Tech car park has never previously been restricted.
3. Moreover, the submitted Travel Survey notes that 19% of those surveyed said they had a disability and 29% of users of the building rely on the rear access.
4. At least two businesses depend on disabled access. The Tech cannot therefore afford to lose businesses due to the lack of disabled access.
5. For less mobile/disabled visitors (and those with toddlers), they cannot access the front entrance due to steps and can’t park to the front due to double yellow lines. The alternative is to park elsewhere which is not only inconvenient in terms of distance but also because of street furniture and lack of dropped kerbs in the area.
6. The ramp is also used by A & DP’s staff and their visitors as well as the occupants of 144, 146 and 148, and visitors and trades people who need access to their houses.
7. The reasons for the condition *‘to ensure the site can be made safe and accessible and in the interests of highway safety’* is erroneous as the

recent changes of use application was retrospective and there is no evidence of any highway safety issues.

8. Events often involve bulky resources and dropping things off etc. so limitations would affect how user-friendly the Tech would be.
9. The requirement of the condition to “*reduce the number of vehicles using the narrow access road*” is erroneous as it is not based on any evidence that there is an existing problem, or that traffic levels are currently unacceptable.
10. Finally, there is no actual evidence of a problem at the site and restrictions are already in place.

Condition 4 of application 2023/93106 states the following:

‘4. 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’.*

Condition 6 of application 2023/93106 states the following:

‘6. 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'.*

Within the submitted Planning Statement rationale is provided for the request to vary condition 6. These include:

1. The Tech is a not-for-profit community run building and whilst it rents space out the Tech is not an 'employer' of the users of the building. It is therefore not possible for the Tech to control how businesses and groups using the building operation with regards to sustainable travel. The Tech will however encourage sustainable travel and practices among its limited volunteers and employees, and the wider users of the Tech.
1. The Tech is a minor category development positioned within Holmfirth town centre, it therefore appears unnecessary and disproportionate to impose such a condition.

Condition 7 of application 2023/93106 states the following:

'6. (7) 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 retained 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'.*

Within the submitted planning statement, the applicant's agent has provided justification for the removal of condition 7. This includes:

1. finances are extremely tight and that Holmfirth Techn Ltd is an exempt charitable Community Benefit Society (CBS).
1. The applicant rejects the notion that the car park is in poor condition, whilst it may be worn in places it is even and safe and useable in its current state.
2. Concerns in respect of root damage to existing mature trees.
3. Not all of the car park is owned by the Techn and therefore any re-surfacing works to just part of the car park would look incongruous and disjointed.
4. 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. Tests of reasonableness and necessity.

History of negotiations/amendments received

No amendments have been sought on this occasion however a variety of correspondence and meetings have occurred during the course of the application.

Relevant Planning History

Planning Applications

2023/93106 – Change of use of Adult Education Centre (Class F1(a)) to a mixed-use community facility to include use Classes E(a) to E(g)(i), F1(a), F1(e) and F2(b) (part retrospective)(Listed Building within a Conservation Area). Approved 2nd February 2024.

2004/90020 – Erection of store and installation of air conditioning condensers (within a Conservation Area). Approved 24th February 2004.

2003/94709 – Erection of prefabricated store and installation of air condensers (within a Conservation Area). Withdrawn 22nd December 2003.

2000/92611 – Formation of new access ramp (within a Conservation Area). Approved 31st October 2000.

Pre-Planning Applications

2018/20058 – Pre application for change of use. Comments made 9th March 2018.

Enforcement

COMP/24/0241 – Breach of condition 5 of planning permission 2023/93106.

COMP/24/0197 – Breach of condition 3 of planning permission 2023/93106.

COMP/20/0427 – Alleged unauthorised change of use from D1/F (community use) to B1/E (Commercial). No evidence of breach.

Representations

Final publicity date expires:

Neighbour Letters – Expired 9th July 2024.

Site Notice – Expired 11th July 2024.

Press Notice – Expired 12th July 2024.

2 representations have been received in objection to the proposals, comments are summarised below.

- The conditions put in place by the LPA need to be adhered to.

Officer note: Noted.

- The areas outside of the Tech need to be made safer and quieter.

Officer note: Noted.

- Concerns in respect of the access into the car park to the rear and narrow ramp. Avoid busy time periods.

Officer note: Noted. The Council's Highways Officers have been consulted on the proposals, their comments can be found within the consultation responses and highway safety sections of this report.

- Visibility has recently been made worse as the Tech have started storing their bins on the pavement.

Officer note: Noted. The Council's Highways Officers have been consulted on the proposals, their comments can be found within the consultation responses and highway safety sections of this report.

- The surface of the exit ramp is bad, had experiences of car wheels spinning on the loose gravel. This ramp should be repaired at the very least.

Officer note: Noted. The Council's Highways Officers have been consulted on the proposals, their comments can be found within the consultation responses and highway safety sections of this report.

- It would be just as easy for people to use the nearby public car park, and it costs pence. This would make it safer for people who really need to use the tech car park such as the disabled and residents.

Officer note: Noted. The Council's Highways Officers have been consulted on the proposals, their comments can be found within the consultation responses and highway safety sections of this report.

- The change of use has caused an extensive intensification of the use of the access land by both pedestrians and vehicles and is having a serious impact on highway safety, pedestrian safety and standard of living for neighbouring residential properties.

Officer note: Noted. The Council's Highways Officers have been consulted on the proposals, their comments can be found within the consultation responses and highway safety sections of this report.

- Concerns in respect of pedestrian safety at the top of the ramp when exiting the car park.

Officer note: Noted. The Council's Highways Officers have been consulted on the proposals, their comments can be found within the consultation responses and highway safety sections of this report.

- The application should be 140 Huddersfield Road not 142.

Officer note: Noted. This appears to be an error however; the red line boundary clearly outlines the Tech building of which this application relates.

- The proposed car park layout is not an accurate representation of the true topography of the land. The proposed parking spaces directly behind the terrace houses are shown to run along the river line but the actual boundary is 3m closer to the terrace houses at its widest point.

Officer note: Noted. The Council's Highways Officers have been consulted on the proposals, their comments can be seen under the consultation responses and highways safety sections of this report.

- The proposed car park layout does not show the area where the residents park and does not indicate safe pedestrian routes.

Officer note: Noted. The Council's Highways Officers have been consulted on the proposals, their comments can be seen under the consultation responses and highways safety sections of this report.

- The location of the cycle rack directly at the bottom of the access lane is not very safe. The cycles have to be back out into oncoming traffic when removing the cycles. The previous owners had the cycle rack at the opposite side of the stone shed, directly behind the Tech building which was a safer and less overlooked location.

Officer note: Noted. The Council's Highways Officers have been consulted on the proposals and have raised no concerns in respect of the cycle rack location.

- The original application for the car park was for 24 spaces and the proposed layout is suggesting 32 spaces which is a further intensification and a large increase on the previous use.

Officer note: Noted. The Council's Highways Officers have been consulted on the proposals, their comments can be found under the consultation responses and highway safety sections of this report.

- It is presumed that if planning was originally put in for the change of use from school playground to car park, then this would have been declined due to the unsuitable access lane which fails all planning requirements regarding width, visibility splays, gradient etc.

Officer note: Noted. However, each application is based on its own merits and the planning balance needs to be considered.

- Unable to find any planning applications for the change of use of the car park to a school playground previously, so this is probably the first time a planning application has been submitted for the land to be used as a car park.

Officer note: Noted.

- A previous planning application (2006/94971) for the change of use of dwelling (148/150 Huddersfield Road) to office business use, was refused. This was due to the intensification of a shared access to Huddersfield Road that is substandard in terms of its width and gradient to the detriment of highway safety. The current application is a much more increased intensity to the use and is very different to the previous owners use.

Officer note: Noted. However, each application is based on its own merits and the planning balance needs to be considered.

- Holmfirth Tech's survey was done at a very quiet time according to the booking calendar on the website. The days covered were only showing one or two groups running per day. Even with such low levels of occupancy the frequency of use of the access lane is noted as being 4 cars per hour which is considered to be substantial. There is no reference to how many pedestrians used the land during the same time period.

Officer note: Noted.

- Many of the users who have attended the groups use the car park for free parking to go into Holmfirth when not attending a group.

Officer note: Noted.

- Using the lane to drop off children to the rear entrance is not essential to running the business as parents can park in the Council run car parks and walk to the front entrance.

Officer note: Noted.

- The survey sent out to Holmfirth Tech customers clearly shows that 82% of the Tech users do not have a requirement to use the lift at the back of the property and do not have any issues with stairs. This could result in a significant reduction in users of the car park as visitors could make use of the various car parks near to the Tech or use public transport and the front entrance of the property.

Officer note: Noted.

- Disagree with the applicant's suggestion that it is impossible to get from the Co-op car park to the Tech building as many parents with push chairs come from that direction.

Officer note: Noted.

- Strongly object to the applicant renting out spaces to members of the public, this has not been applied for in the planning application and further increases the use and intensity of the access land and car park. The parking is advertised as 24/7 parking on the applicant's website.

Officer note: Noted.

- 19% of the Tech users have disabilities and these are obviously the people who need to use the car park to access the building lift. The condition set allows for use by disabled visitors by means of having a blue badge and this is perfectly acceptable however, with such a high percentage of disabled visitors, would the provision of just 2 disabled parking spaces be sufficient for the needs of their customers?

Officer note: Noted. The Council's Highways Officers have been consulted on the proposals and have raised no concerns in respect of the number of disabled parking bays provided.

- Disagree with the notion that it is much safer to park in the car park and walk through a congested car park with vehicles reversing and travelling up and down the lane.

Officer note: Noted.

- The front of the building has just 4 steps to navigate to get into the building, it could be a possibility that the applicant could look into getting mobile ramps or lifts to aid access to the front of the building.

Officer note: Noted. The use of such aids was discussed on site with the Council's Highways Officer however, it was not considered that there would

be sufficient space to provide such aids whilst still allowing a safe access for pedestrians to the front of the site. This has therefore not been investigated further.

- It should be pointed out that Holmfirth Civic Hall does not have private parking and there is no stopping along Huddersfield Road. Parking is residents permit parking only, so the users of Civic Hall have to use the Council run car parks. It runs a similar community space and operates successfully without the availability of a private car park.

Officer note: Noted.

- Allowing the opening times to be extended to unsociable hours would clearly be unacceptable and would result in the property owners not being able to enjoy their properties.

Officer note: Noted. This is discussed in more detail within the residential amenity section of this report.

- The permitted times set by condition 4 are far beyond the times that the previous owner operated which as a formal education facility was Monday to Friday, term times only and during college hours only.

Officer note: Noted.

- The Council's car parks are free of charge after 16:30 so it would not be necessary for anybody to require the use of the applicant's car park after this time.

Officer note: Noted.

- It should be considered to have two sets of times for condition 4 which would be opening times for the actual building and for the use of the car park, as extending the hours for the use of the car park would cause a huge loss of amenity for the neighbouring residents.

Officer note: Noted. Opening hours are discussed in more detail within the residential amenity section of this report.

- Whilst it is appreciated that the applicant is a charitable community benefit society, it shouldn't deter from the fact that the car park needs to be maintained to a safe standard. The surfaces are uneven and badly worn in places, there are potholes within the car park and water pools over a large area in the car park to the side of the terrace houses. The entrance to the larger car park is damaged and raised which is causing the wall and heavy iron fence to lean dangerously, along with the lamp post. The lane is badly damaged, has large potholes and loose damaged tarmac that is causing vehicles to skid.

The surfaces are not only unsuitable for vehicles but are uneven and have trip/slip hazards for pedestrians and are certainly unsuitable for people with mobility issues.

Officer note: Noted. This has been discussed in more detail within the highway safety section of this report.

- Strongly suggest that a representative visits the site to observe the concerns raised prior to making a decision.

Officer note: Noted. Officers undertook a site visit with a Highways Officer on the 22nd August 2024.

Officer note: The application has been advertised by site notice and press notice in line with the legal statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. This is due to the site being within Holmfirth Conservation Area and relates, to and is adjacent to Listed Buildings.

Consultation Responses

KC Highways Development Management – Comments received 12th July 2024. Highway Officers do not believe that the submitted Car Park Management Plan does enough to try to limit the number of vehicle trips on the access and therefore Officers do not support the variation of condition 2 at this time. Further to this, Officers do not support the removal of Condition 7 but may be amenable to a variation to ensure that problem areas of the car park, especially the access, are given priority. Finally, the submitted Sustainable Travel Statement contains details of all the points raised in the original condition 6 of application ref 2023/93106, apart from the introduction of working practices to reduce travel demand. Due to the nature of the business, Highway Officers are happy to see the removal of this aspect of the condition and therefore accept the variation of condition 6 to the revised wording.

Officer note: Following receipt of the above comments, a site meeting was undertaken on the 22nd August 2024, following this a Car Park Condition Survey and revised site layout plan was submitted to the Council. The Council's Highways Officers consider these details to be reasonable, and that the variation of condition to replace patching of the car park for the existing resurfacing is acceptable to Highways. The main point of this condition was to make the car park surface safe and attractive to users to ensure they would park in suitable places, rather than unsuitable locations in order to avoid holes/pools etc and the proposed patching will achieve this.

In terms of the "parent and child" parking spaces marked within the car park, Highways Officers consider that it is more important to ensure that vehicles can easily and safely pass this pinch point with residents vehicles parked as observed on the site visit and to this they recommend a rearrangement of the car park layout to ensure this, which may require the removal of the

northernmost parent and child space and the parallel parking space moved further south to fill this space to ensure a wider passing point.

Furthermore, Highway Officers believe that the priority sign at the top of the ramp would be better based on diagram 811A (S11-2-1) "Priority over Oncoming Vehicles"



The new sign at the bottom of the ramp would remain the Diagram 615 (S3-2-9) "Give Way to Oncoming Vehicles" sign as already in place.



Officer note: Following receipt of the above comments the applicant submitted an amended site layout plan on the 2nd of October 2024, which sought to incorporate the above comments from highways Officers. Highways Officers deemed this all to be acceptable.

KC Environmental Health – Comments received 11th June 2024. Object to the change in opening hours due to concerns in relation to loss of amenity to adjacent neighbouring properties by way of noise and disturbance.

Parish/Town Council

Holme Valley Parish Council – No comment, defer to Kirklees Officers.

Local Ward Members

None.

Planning Policy Background

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019) and the Holme Valley Neighbourhood Development Plan (adopted 8th December 2021).

The application site is located within Holmfirth Conservation Area, is listed as a Unlisted and Listed Asset of Community Value and relates to a Grade II

Listed Building, adjacent several other Listed Buildings to the north. The site is also located within the Strategic Green Infrastructure Network, Holme Valley Neighbourhood Area and a bat alert area. The site is also partially located within Flood Zone 2 along the eastern boundary.

Kirklees Local Plan (LP):

- **LP1 – Achieving Sustainable Development**
- **LP2 – Place Shaping**
- **LP3 – Location of New Development**
- **LP7 – Efficient and Effective Use of Land and Buildings**
- **LP20 – Sustainable Travel**
- **LP21 – Highways and Access**
- **LP22 – Parking**
- **LP24 – Design**
- **LP26 – Renewable and Low Carbon Energy**
- **LP27 – Flood Risk**
- **LP30 – Biodiversity and Geodiversity**
- **LP31 – Strategic Green Infrastructure Network**
- **LP35 – Historic Environment**
- **LP48 – Community Facilities and Services**
- **LP51 – Protection and Improvement of Local Air Quality**
- **LP52 – Protection and Improvement of Environmental Quality**

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) updated December 2024, 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. Most specifically in this instance, the below chapters are of most relevance:

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- 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
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

Holme Valley Neighbourhood Development Plan (2020-2031)

The Holme Valley Neighbourhood Development Plan was adopted on 8th December 2021 and therefore forms part of the Development Plan.

Policy 1: Protecting and Enhancing the Landscape Character of Holme Valley

“Overall, proposals should aim to make a positive contribution to the quality of the natural environment”

Policy 2: Protecting and Enhancing the Built Character of the Holme Valley and Promoting High Quality Design

“Proposals should be designed to minimise harmful impacts on general amenity for present and future occupiers of land and buildings” and [proposals] “should protect and enhance local built character and distinctiveness and avoid any harm to heritage assets...”

Policy 3: Conserving and Enhancing Local Heritage Assets

“All development proposals affecting these character defining components of the designated Conservation Areas or their settings will be assessed in terms of Kirklees Local Plan Policy LP35 Historic Environment Part 1W”

Policy 9: Protecting and Enhancing Local Community Facilities

“Where the proposal involves a community facility listed as an Asset of Community Value on a Community Assets Register the community must first be given the opportunity to acquire the asset to continue its operation before planning permission for an alternative use or development can be granted...Proposals to create, expand or alter schools will be supported”

Policy 11: Improving Transport, Accessibility and Local Infrastructure

“New development...should provide off-road parking provision in line with Kirklees Local Plan Policy LP22 (Parking) and the Council’s latest guidance on highways design”

Policy 12: Promoting Sustainability

“All new buildings should aim to meet a high level of sustainable, design and construction and be optimised for energy efficiency, targeting zero carbon emissions”

Policy 13: Protecting Wildlife and Securing Biodiversity Net Gain

“All development proposals should demonstrate how biodiversity will be protected and enhanced”

It is important to note that the application site is within Landscape Character Area 4, this being the ‘River Holme Settled Valley Floor’. Key characteristics

of the area include framed views from the settled valley floor to the upper valley sides and views across to opposing valley slopes and beyond towards the Peak District National Park. Boundary treatments comprise largely of millstone grit. The stone walling which runs parallel with Upperthong Lane is representative of local vernacular detailing. In addition, a network of Public Rights of Way including the Holme Valley Riverside Way which follows River Holme from Holmbridge through Holmfirth and downstream. National Cycle Route no. 68 follows minor roads through Upperthong towards the centre of Holmfirth before climbing the opposing valley slopes. Mill ponds reflect industrial heritage and other recreation facilities.

Key built characteristics of the area include mill buildings, chimneys and ponds, including Ribbleden Mill with its chimney, associated mill worker houses and ashlar fronted villas link the area to its industrial and commercial heritage and are a legacy of the areas former textile industry. Terraced cottages and distinctive over and under dwellings feature on the steep hillsides with steep ginnels, often with stone setts and narrow roads. Narrow winding streets and stepped passageways, stone troughs and setts characterise the sloping hillsides above Holmfirth town centre. Small tight knit settlements on the upper slopes are characterised by their former agricultural and domestic textile heritage. There are mixed areas of historic and more recent residential and commercial developments.

Other Guidance Documents:

- Kirklees Highways Design Guide (2019)
- Waste Management Design Guide for New Developments (Version 5, October 2020)
- Biodiversity Net Gain in Kirklees Technical Advice Note (2021)
- Kirklees Climate Change Guidance for Planning Applications

1- Principle of Development

Section 73 of the Town and Country Planning Act 1990 allows for the variation or removal of a condition of a previous permission.

The principle of a mixed-use community facility to include use classes E(a) to E(g)(i), F1(a), F1(b), F1(e) and F2(b) was established at the site under permission 2023/93106.

As such, it is considered that the principle of development remains established by the way of the previous application. The assessment will therefore deal with the merits of the proposed variations only.

2 – Impact on Residential Amenity

Section B and C of LP24 states that alterations to existing buildings should: *“...maintain appropriate distances between buildings’ and ‘...minimise impact on residential amenity of future and neighbouring occupiers.”*

In addition, Paragraph 135 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

Policy 2 of the HVNDP also states that proposals should be designed to minimise harmful impacts on general amenity for present and future occupiers.

Paragraph 191 of the NPPF, contained within Chapter 15, sets out that proposals should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development. Policy LP52 of the Kirklees Local Plan seeks to ensure that, amongst other things, the impact from noise for new development is acceptable; Policy 2 of the HVNDP follows this theme.

Policy LP52 is considered to be of relevance and sets out that development which has the potential to increase pollution from noise must be accompanied by evidence to show that the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, so as to ensure it does not reduce the quality of life and well-being of people to an unacceptable level.

Given the nature of the proposed amendments, which includes a change in the originally approved hours of operation, (these are outlined below), it is considered necessary to assess the residential amenity of adjacent neighbouring properties against these changes.

The applicant proposes a change of use from:

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

To:

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

In support of the application a statement by Robert Halstead, Chartered Surveyors & Town Planners, dated May 2024 gives the following rationale for the extension of time as:-

“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. “

Given the nature of the proposed variation and close proximity to residential properties to the north, the Council's Environmental Health team have been consulted. They note that they cannot accept the argument that the opening times will only be extended occasionally because it cannot be conditioned or controlled, thus nearby sensitive receptors may have the building in use every Friday and Saturday up to 23:00 with users leaving the site from this time, causing loss of amenity by way of noise and disturbance. They also note that it is difficult to understand why service users would need an additional two hours on a Sunday or Bank Holiday to clear away as they considered this would have been built into their usage plan to finish at the current allotted time of 17:00, this extension of time would enable the rooms to be open and in use up to 19:00 on every Sundays and Bank Holiday, which could give rise to loss of amenity to nearby sensitive receptors by way of noise and disturbance.

Furthermore, Officers note that concerns have been raised within representations about the extended hours of use. In respect of the extended opening hours on Sundays and Bank Holidays, Officers are of the opinion that the wording of the original condition (4) would allow for the group leader/teacher to tidy up the space once the classes have ended and simply restricts access for customers. Furthermore, the 09:00-17:00 opening hours on Sundays and Bank Holidays were originally requested by the applicant within application 2023/93106 and it is reasonable to assume that an additional 2 hours would not be required simply for tidying up. The applicant/group leader would need to ensure that better time management is implemented to ensure that enough time is allowed between classes to allow for tidying up.

In terms of the proposed extension to hours on Fridays and Saturdays, the applicant's agent notes that:

‘Having reflected on our meeting further however, the Tech would be willing to compromise and accept up to 12 occasions a year going up until 11 PM on Fridays or Saturdays, and the same number (12) going up to 7 PM on Sundays or Bank holidays.

In reality, the number of activities that are booked to go beyond 9 pm are few and far between, however as stated previously the building needs to generate income in order for it to survive. The point of the building is that that is multi-purpose (in accordance with its core objectives in relation to Arts, Learning, Wellbeing and Enterprise) and therefore needs a degree of flexibility in order to achieve its core aims and objectives.

Moreover, it's also crucial to be able to continue hosting important community and social events (which require the additional hours on occasions throughout the year) – such as the Festival of Folk, Film Festival, Arts Festival, AGM's, or occasional special event (such as a fund raising event for the Tech).

Over 500 people are using the building each week currently and the Tech feel it is important to balance their interests with the amenities of the nearest neighbouring properties...

There is also no evidence to suggest that there has been an actionable problem in the last few years since the Tech took over managing the building from the Council'.

Following several discussions, it was concluded that it would not be possible to restrict such hours to just 12 occasions in the year as this would not be precise or likely enforceable, ergo not meeting the tests of an appropriate condition. Therefore, taking into account the overall planning balance, whereby the LPA have to be reasonable and support the existing business to expand and adapt, whilst also protecting the amenity of adjacent residential properties, it is suggested that a 12 month trial period is enforced via condition to allow the impacts of the variation in hours to be assessed during this period in the interests of preventing the loss of amenity to adjacent residential properties arising from noise disturbance and to accord with the aims of Policies LP24 and LP52 of the Kirklees Local Plan, Policy 2 of the Holme Valley Neighbourhood Development Plan and Chapters 12 and 15 of the National Planning Policy Framework.

In summary, subject to the proposed condition, Officers are on balance satisfied that the site may operate without undue harm to the amenity of neighbouring residents, in accordance with LP24 and LP52 of the Kirklees Local Plan.

3 – Impact on Highway Safety

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

Policy 11 of the HVNDP states that new development should provide off-road parking provision in line with Kirklees Local Plan Policy LP22 (Parking) and the Council's latest guidance on highways design.

This application is for the variation of conditions 2 (car park management plan), 4 (opening hours) and 6 (sustainable travel statement) and the removal of condition 7 (car park re-surfacing) of previous permission 23/93106 for a change of use from adult education centre to mixed use community facility with parking and an existing narrow access on to A6204 Huddersfield Road, a 30mph two-way single carriageway primary distributor road of approximately 8.1m width with footways on both sides and street lighting present. There are No Waiting At Any Time TRO markings across the access to the car park and at the junction with Bridge Lane to protect visibility.

The application site is located at the edge of the compact town centre and as such is in a sustainable location with access to public transport (closest stops on a high frequency bus route are within 85m and the bus station is within 300m) and town centre shops and facilities are within 500m, although it is noted that the pedestrian route between the site and the town centre can be narrow at points. The town centre contains several public car parks however no details of the availability of spaces was provided and demand for parking within the town is known to be high at weekends.

Given the nature of the proposed amendments, the Council's Highways team were consulted. In respect of condition 6, the proposals are to change the wording to:

"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."

Highways Officers note that the submitted Sustainable Travel Statement contains details of all the points raised in the original condition apart from the introduction of working practices to reduce travel demand. Due to the nature of the business, Highway Officers are happy to see the removal of this aspect of the condition and therefore accept the variation of condition 6 to the revised wording given above.

In terms of Condition 7, this was originally applied to be removed due to the cost of resurfacing the car park and the associated works and tree works required to do this. Whilst it is appreciated that as a charity organisation, funding for these works may be limited, the standard of the surface of a car park can have an influence on highway safety. Following a site meeting whereby Highways Officers were able to see the current standard of the parking area to the rear of the Tech building, and given the land ownership issues of the ramp, which are currently ongoing, it was agreed that Condition 7 remain but be varied to include patching up of 5 parts of the car park with permeable materials (e.g. sandstone aggregate). These details are outlined within the submitted Car Park Condition Survey and the revised Site Layout Plan, drawing no. (23227)10_Site Layout Plan Rev B, received 12th December 2024 and shall be conditioned in the event that planning permission is approved. Highways Officers concluded that the proposed patching looks reasonable, and that the variation of condition to replace patching of the car park for the existing resurfacing is acceptable to them, the main point of this condition was to make the car park surface safe and attractive to users to ensure they would park in suitable places, rather than unsuitable locations in order to avoid holes/pools etc and the patching will achieve this.

Finally looking at condition 2, the proposals are to amend to the following wording:

“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”.

Whilst Highways Officers did initially have concerns over the submitted Car Park Management Plan, following a site meeting, it was requested that the ‘priority give way’ sign at the bottom of the ramp be replaced with a new one, alongside a complementary sign showing the opposite (i.e. priority) on the wall at the top of ramp above the existing signs. It was also agreed to leave the far end of the car park unmarked (area past the stone stairs up to the highway – Huddersfield Road). These changes are all outlined within drawing no. (23227)10_Site Layout Plan Rev B, received 12th December 2024 and are deemed to be acceptable and sufficient to Highways Officers.

The amendments to the site layout plan are also considered reasonable as they now ensure that vehicles can easily and safely pass the pinch point with resident’s vehicles parked, as observed on the site visit.

It is also noted that the sections of the original condition concerning the marking out of the car park, the number and location of accessibility spaces, the number and location of cycle parking spaces and the dissemination of information on sustainable travel options and alternative car parks was dealt with within the discharge of condition 3 (application No 24/91391) and the Sustainable Travel Statement contained within the variation of Condition 6, previously discussed.

Taking the above into account, it is concluded that the scheme would not represent any additional harm in terms of highway safety and would comply with Local Plan Policies LP21 and LP22, and the guidance contained within Chapter 9 of the National Planning Policy Framework.

5- Other Matters

With regards to other matters that were assessed as part of the previous planning permission – visual amenity, heritage assets, flood risk and biodiversity, the proposal is unchanged in relation to these aspects and any conditions imposed in regard to these matters to make the development acceptable will be repeated as part of this application.

Conditions Review

As the application is a Section 73 application to vary conditions, it is necessary to re-impose all conditions which remain relevant.

Whilst the plans have been updated within the plans table to reflect the amendments applied for, the wording of condition 1 will remain unchanged.

In addition, the original conditions have been reviewed and updated to reflect the previous discharge of conditions applications which have been approved

at the site and to accommodate the changes applied for within this variation of condition application. No further conditions are required.

6- Conclusion

The proposal is a Section 73 Variation of Condition application to vary conditions 2 (Car Park Management Plan), 4 (opening hours) and 6 (Sustainable Travel Statement) and removal of condition 7 (car park re-surfacing) on previous permission 2023/93106. These amendments are required to accommodate minor changes to a previously approved scheme, to allow for extended opening hours, submission of a car park management plan and sustainable travel statement. Whilst it was originally requested that condition 7 be removed in its entirety, it has been agreed that this condition now be varied to include some patchwork throughout the car park. As set out above, in determining a S73, the Local Planning Authority must only consider the 'disputed' condition that is subject of the application – it is not a complete re-consideration of the application. As such, it is a consideration of conditions 2, 4, 6 and 7 only. As detailed within the report, given the minor modifications sought by this proposal, which is reflected in the plan numbers associated with condition 1, the minor variations are 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. This application has been assessed against relevant policies in the development plan and other material considerations. The proposal would remain in accordance with the development plan and there are no material considerations to indicate otherwise. The development would therefore constitute sustainable development, and it is recommended for approval.

There are no other matters for consideration.

Decision Authorisation – Delegated Powers

Application Number: 2024/91458

Officer Recommendation: Approve.

Conditions and Reasons:

1. The development hereby permitted shall be carried out in 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, LP7, LP20, LP21, LP22, LP24, LP26, LP27, LP30, LP31, LP35, LP48, LP51 and

LP52 of the Kirklees Local Plan, Chapters 2, 4, 8, 9, 11, 12, 14, 15 and 16 of the National Planning Policy Framework and Policies 1, 2, 3, 9, 11, 12 and 13 of the Holme Valley Neighbourhood Development Plan.

1. The car park to the rear of, and ancillary to Holmfirth Tech, 142, Huddersfield Road, Holmfirth, HD9 3AR shall be operated in accordance with the approved Car Park Management Plan.

Reason: To ensure that the site can be made safe and accessible 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.

2. Arrangements and the specification for layout of parking spaces shall be undertaken in accordance with details outlined within hereby approved drawing no. (23227)10_Site Layout Plan Rev B, received 12th December 2024. The approved arrangements and specification of the parking spaces shall be completed in accordance with the details shown on the approved plans within 6 months of the date of this permission and retained thereafter.

Reason: To ensure a suitable access and layout in the interests of highway safety and to accord with Policies 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.

- 4a. Except for the circumstances referred to in condition 4b, 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

Reason: In the interests of preventing loss of amenity to adjacent residential properties arising from noise and nuisance disturbance and to accord with the aims of Policies LP24 and LP52 of the Kirklees Local Plan, Policy 2 of the Holme Valley Neighbourhood Development Plan and Chapters 12 and 15 of the National Planning Policy Framework.

- 4b. Notwithstanding the requirements of condition 4a, for a twelve-month trial period from the date of this decision, the use hereby permitted shall not be open to customers outside the following hours:

Monday to Thursday: 08:30-21:00
Friday and Saturday: 08:30-23:00
Sunday and Bank Holidays: 09:00-17:00

At the end of the twelve-month trial period the hours of use shall be in accordance with those set out within condition 4a.

Reason: To allow the impacts of the variation in hours to be assessed during this period in the interests of preventing the loss of amenity to adjacent residential properties arising from noise disturbance and to accord with the aims of Policies LP24 and LP52 of the Kirklees Local Plan, Policy 2 of the Holme Valley Neighbourhood Development Plan and Chapters 12 and 15 of the National Planning Policy Framework.

5. Storage, bin presentation points and access for collection of wastes shall be provided in accordance with the details outlined within hereby approved drawing no. (23227)10_Site Layout Plan Rev B, received 12th December 2024 and be so retained thereafter.

Reason: In the interests of amenity and highway safety and to meet the requirements set out in Kirklees Local Plan Policy LP24 part d(vi) and Chapter 9 of the National Planning Policy Framework.

5. The development shall operate in accordance with the measures contained within the hereby approved Sustainable Travel Statement by Robert Halstead Chartered Surveyors & Town Planners, dated May 2024, received 3rd June 2024. 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 Development Plan and Policies LP20 and LP22 of the Kirklees Local Plan.

6. Within three months of the date of this permission, the five areas of patching within the Holmfirth Tech car park, as identified within the hereby approved Car Park Condition Survey dated September 2024, received 11th September 2024 and drawing no. (23227)10_Site Layout Plan Rev B, received 12th December 2024, shall be undertaken and shall be retained 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 contained within Chapter 14 of the National Planning Policy Framework.

NOTE: Construction relates noise shall not take place outside the hours of: -

07.30 to 18.30 hours Mondays to Fridays

08.00 to 13:00 hours, Saturdays

With no noisy activities on Sundays or Public Holidays

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.

Plans and specifications schedule: -

Plan Type	Reference	Web ID	Date Received
(23227)10_Site Layout Plan	-	B	2nd October 2024
Car Park Management Plan – Supporting Information	-	-	3 rd June 2024
Sustainable Travel Statement – Supporting Information	-	-	3 rd June 2024
Holmfirth Tech Car Park Survey – Supporting Information	-	-	3 rd June 2024
Tech Car Park Survey (Travel) – Supporting Information	-	-	3 rd June 2024
Car Park Condition Survey September 2024 – Supporting Information	-	-	11th September 2024
Quotes for work from D.Haigh & Co. Tarmacadam Specialists – Supporting Information	-	-	3 rd June 2024
Planning Statement – Supporting Information	-	-	3 rd June 2024
Ownership Plan – Supporting Information	(23227)11_Ownership Plan	A	2nd October 2024
<i>Approved under application ref: 2024/91391</i>			
Email from Applicant's Agent Mrs. Alison	-	-	15th July 2024

Dumville - Supporting Information			
<i>Approved under application ref: 2023/93106</i>			
(23227)1_Location Plan	-	B	19th December 2023
(23227)2_Layout as Existing	-	C	19th December 2023
Climate Change Statement – Supporting Information	-	-	20th October 2023
Planning Statement – Supporting Information	-	-	20th October 2023

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 preapplication advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. No amendments have been sought on this occasion as the proposals were considered to be acceptable upon submission.

Report Dated:

13th December 2024.