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:	**2024/62/91474/W**
Site Address:	Nabbs Lane Chemical Works, Nabbs Lane, Slaithwaite, Huddersfield, HD7 5AT
Description:	Erection of 6 storage units
Recommending Officer:	Katie Chew

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: 22-NOV-2024

Officer Report

Site Description

Nabbs Lane Chemical Works, Nabbs Lane, Slaithwaite, Huddersfield, HD7 5AT

The application site relates to a former chemical works off Nabbs Lane in Slaithwaite. The site is an irregular shape and extends approximately 0.21 hectares. The site is bounded by mature planting across all boundaries, and due to a sloped topography, the site is set at a slightly higher ground level to buildings located on Nabbs Lane. The Grade II Slaithwaite Viaduct also runs through the middle of the site.

The application site is partially located within Slaithwaite Conservation Area and is located adjacent to several Listed Buildings/structures.

Description of Proposal

The application seeks planning permission for the erection of 6 storage units.

The proposed buildings are to provide warehousing and storage of cars and classic cars. The units are to be located around the northern perimeter of the site and within 2 of the arches of the Listed viaduct. The units will not be fixed to any of the existing stone.

Measurements:

Units 1, 2 & 3 - 7.2m x 17.2m, with a ridge height of around 6.4m.

Unit 4 - 7.2m x 10m, with a ridge height of around 6.4m.

Units 5 & 6 - 7.3m x 7m, with a ridge height of around 6.4m.

All 6 buildings are to have a coursed natural stone plinth with flat metal cladding to the sides and roof.

Access to the site is to be taken via the existing access out on to Nabbs Lane, with parking provided to the rear of the site for 10 vehicles.

Associated alterations also include the removal of the existing buildings, to concrete up stands and the provision of a new retaining wall formed in concrete Lego blocks along the northern boundary of the site.

History of negotiations/amendments received

Following receipt of comments from the Council's Trees Officer, further information was requested in respect of the proposed retaining wall and whether any tree works are required to enable the development.

Relevant Planning History

2024/90596 – Essential work to TPO 37/95. Noted 28th February 2024.

Pre-application

2024/20686 – Advice regarding works to Slaithwaite Reservoir - Comments provided 13th August 2024.

Representations

Final publicity date expires:

Neighbour Letters – Expired 29th October 2024.

Site Notice – Expired 17th October 2024.

Press Notice – Expired 1st November 2024.

No representations have been received to date.

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 partially located within a Conservation Area and adjacent to several Listed Buildings and structures.

Consultation Responses

KC Highways Development Management – Comments received 20th November 2024. No objections.

KC LLFA – Comments received 16th October 2024. No objections.

KC Conservation & Design – Comments received 17th October 2024. No objections subject to a condition which requires the colour of the cladding on the units to be a dark green/dark grey so as to reduce the impact on the heritage asset.

KC Environmental Health (ENVH) – Comments received 23rd October 2024. No objections to the proposals subject to conditions and informatives which relate to contaminated land, noise, external artificial lighting, and electric vehicle charging points.

Officer note: Following receipt of the above comments, the applicant's agent has sought to submit a Phase 1 Report to overcome some of the ENVH Officers concerns in respect of land contamination. ENVH Officers have assessed the above report and note that this is acceptable and therefore land contamination conditions can be revised to remove the requirement of a Phase 1 Report to be submitted.

Officer note: Whilst it is acknowledged that ENVH Officers have made reference to potential signage/advertisements at the site, as this would be considered under a separate advertisement application, it is not considered reasonable or necessary to include a condition/informative of this nature on this occasion.

KC Trees – Comments received 26th September 2024. The Council's Tree's Officer requests the submission of further information as there is a woodland TPO 37/95 protecting all surrounding trees on this site and at present it is difficult to tell the level of Impact on the surrounding trees. The Tree's Officer requests information as to whether any tree works are proposed to facilitate the development and if the new retaining wall requires any ground to be broken. If the answer to both of these is no, then there would be no need for an Arboricultural Impact assessment. If the new retaining wall is to simply be stacked on existing hardstanding, then there will be no disturbance to the Roots of the protected trees. There is a holding objection until the above information is clarified in writing.

Officer note: Following receipt of the above comments the applicant/applicant's agent confirmed via email on the 1st October 2024 that there are no tree works proposed at the site and the retaining wall will not involve any excavation works and will be simply stacked on existing ground, not disturbing any existing tree roots. The Council's Tree's Officer confirms that this is acceptable and raised no objections.

Parish/Town Council

N/A.

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).

The application site is located within the Strategic Green Infrastructure Network and a Bat Alert Area. It is also important to note that the site is located partially within a Conservation Area and Flood Zones 2 and 3a. The site is also located adjacent to several Listed Buildings/structures and Slaithwaite reservoir and inland water to the south and west. The site also encompasses protected trees and areas of Wildlife Habitat Network.

Kirklees Local Plan (LP):

- **LP1 – Achieving Sustainable Development**
- **LP2 – Place Shaping**
- **LP3 – Location of New Development**
- **LP20 – Sustainable Travel**
- **LP21 – Highways and Access**
- **LP22 – Parking**
- **LP24 – Design**
- **LP27 – Flood Risk**
- **LP28 - Drainage**
- **LP30 – Biodiversity & Geodiversity**
- **LP31 – Strategic Green Infrastructure Network**
- **LP33 - Trees**
- **LP35 – Historic Environment**
- **LP51 – Protection and Improvement of Local Air Quality**
- **LP52 – Protection and Improvement of Environmental Quality**
- **LP53 – Contaminated and Unstable Land**

Other Guidance Documents:

- Kirklees Highways Design Guide (2019)
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Planning Applications Climate Change Guidance (2021)
- Biodiversity Net Gain in Kirklees Technical Advice Note (2021)

National Policies and Guidance

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

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications. Most specifically in this instance, the below chapters are of most relevance:

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 6 – Building a strong, competitive economy
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed and beautiful 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

Summary of Principal Planning Issues

The following matters are considered in the assessment below –

1) Principle of development
1) Scale, design and visual impact of the proposed development
2) Impact of the proposed development upon the privacy and amenity of neighbouring properties
3) Impact on highway safety
4) Other matters
5) Conclusion

1 – Principle of Development

1.1 - Sustainable Development

NPPF Paragraph 11 and LP1 outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation.

The dimensions of sustainable development will be considered throughout the proposal. Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.

Policy LP7 of the Kirklees Local Plan outlines the following criteria when seeking to establish the 'effective and effective use of land and buildings':

'To ensure the best use of land and buildings, proposals: a. Should encourage the efficient use of previously developed land in sustainable locations provided that it is not of high environmental value;
b. Should encourage the reuse and adaption of vacant and underused properties;
c. Should give priority to despoiled, degraded, derelict and contaminated land provided that it is not of high environmental value;
d. Will allow for access to adjoining undeveloped land so it may subsequently be developed'

The above is echoed within Chapter 11 of the NPPF.

The site is considered to be previously developed land, comprising of a significant amount of hardstanding and several industrial units and storage containers which relate to the previous use of the site as a chemical works factory. Furthermore, it is considered to be of limited environmental value

(considered further below). Furthermore, the proposal would not prevent or limit development/redevelopment of the wider Priority Employment Area and would in fact reflect other commercial/industrial uses within the area, specifically to the north at Bankgate Mills.

In conclusion, the proposal would provide an employment generating use at a site which has previously operated as a chemical works factory but is currently vacant (since 21st November 2022), whilst also representing an efficient and effective use of land. Therefore, the principle of development is considered to be acceptable.

Consideration must now be given to the developments impact upon the local area, this is assessed below.

2 – Impact on Visual Amenity and Heritage Assets

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby paragraph 131 provides a principal consideration concerning design which states:

"The creation of high-quality beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities".

Paragraph 135 of the NPPF is of relevance, in particular the following parts: -

'b) Planning policies and decisions should ensure that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

c) Planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, whilst not preventing or discouraging appropriate innovation or change'.

Kirklees Local Plan Policies LP1, LP2 and significantly LP24 all also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity.

Policy LP24 states that proposals should promote good design by ensuring:

"*a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape".*

The proposals seek to provide 6 storage units which are to measure approximately:

Units 1, 2 & 3 are to be of a similar scale, size and design, and are to measure 7.2m x 17.2m, with a ridge height of around 6.4m.

Unit 4 is to measure 7.2m x 10m, with a ridge height of around 6.4m.

Units 5 & 6 are to be of a similar scale, size and design, and are to measure 7.3m x 7m, with a ridge height of around 6.4m.

The storage units are to be located along the northern periphery of the site and within 2 of the adjacent Listed viaduct arches. The units are to be of a typical utilitarian design, rectangular/square in shape with pitched roofs and large entrance ways, suitable for their proposed use. All 6 of the buildings are to have a coursed natural stone plinth with flat metal cladding to the sides and roof. The buildings are considered to be sympathetic to, and reflective of, the existing nature of the site which already contains similar simple and functional structures within it. The buildings are to be viewed within the general context of the area and are considered to be suitable in this location.

Other associated alterations include the removal of the existing buildings, concrete up stands and the provision of a new retaining wall formed in concrete Lego blocks along the northern boundary of the site. These alterations are considered to be suitable in this location and would not detract from the character and appearance of the area.

For the above reasons, the proposals are considered to accord with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

Heritage Assets

The application site is located adjacent to several Listed Buildings/structures and therefore Section 66 of the Planning (Listed Buildings & Conservations Areas) Act (1990) is relevant. Section 66 states that for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

The site is also partially located within Slaithwaite Conservation Area and therefore Section 72(1) of the Town & Country Planning (Listed Buildings and Conservation Areas) Act 1990 requires Local Planning Authority to pay special attention to the desirability of preserving or enhancing the character of appearance of Conservation Areas.

Sections 66 and 72 of the Planning (Listed Building & Conservation Areas) Act (1990) are also mirrored in Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

Listed Buildings are designated heritage assets and Paragraph 200 of the NPPF states that: "*Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a*

proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise."

Paragraph 205 of the NPPF state that: "*When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance."*

Paragraph 206 of the NPPF goes on to state that: "*Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification."*

Paragraph 208 of the NPPF states that when a proposed development would lead to harm, it is necessary to achieve public benefits that outweigh the harm to the heritage asset.

Furthermore, LP35 states that: *"development proposals affecting a designated heritage asset…should preserve or enhance the significance of the asset. In cases likely to result in substantial harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring substantial public benefits that clearly outweigh the harm.".*

Given the nature of the proposal, the Council's Conservation & Design (C&D) Officer was consulted. They note that the application site sits within the immediate setting of the Grade II Slaithwaite Viaduct. To the east of the site running north to south is Bank Gate, where the site can in part be experienced from and there are views onto the viaduct. There are also views looking onto the site and the Viaduct off Nabbs Lane.

Within the site is the extant chemical works building, which has existed since the beginning of the 20th century. There are also a variety of small ancillary buildings and storage units beneath the arches of the Viaduct. While the proposals will see additional structures added, which will to a degree have some impact, they will not cause any significant impact on the Listed Viaduct and its setting. C&D Officers did not raise an objection to the proposals, subject to the provision of a condition which sets out that the colour of the cladding for the roof and the cladding should be dark green or dark grey so as to reduce the visual impact of the units. In the event that planning permission is approved, it is recommended that a condition be attached to this effect.

The proposal is therefore considered to comply with the requirements of Policies LP24 and LP35 of the Kirklees Local Plan, Chapters 12 and 16 of the National Planning Policy Framework and Sections 66 and 72 of the Planning (Listed Building & Conservation Areas) Act (1990).

3 - Impact on Residential Amenity:

Sections B & C of the Kirklees Local Plan Policy LP24 which states that alterations to existing buildings should:

"Maintain appropriate distances between buildings' and '…minimise impact on residential amenity of future and neighbouring occupiers'.

Further to this, 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 occupiers.

The nearest residential dwellings are located to the south of the site on Nabbs Lane, approximately 30+ metres away. Given the significant separation distances and the single storey nature of the proposed storage units, Officers have no concerns in respect of overlooking, overshadowing, or the proposal appearing overbearing in nature on these adjacent neighbouring properties.

Paragraph 191 of the NPPF outlines that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on living conditions. In addition to this,

Policy LP52 of the Kirklees Local Plan states that proposals which have the potential to increase pollution from noise, vibration, light, dust, odour and other forms of pollution must be accompanied by evidence to show 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 or have unacceptable impacts on the environment.

In respect of noise, odour and light pollution, given the nature of the application and its relationship with residential dwellings, the Council's Environmental Health (ENVH) team were consulted. They note that it is unclear from the documents provided whether any external artificial lighting will be utilised at the site. Further information is therefore required regarding lighting of the site and whether any illuminated signs and advertisements are proposed. If lighting is to be installed, then a condition is necessary concerning lighting to avoid loss of amenity to nearby residential properties.

Officer note: As mentioned previously, whilst it is acknowledged that ENVH Officers have made reference to potential signage/advertisements at the site, as this would be considered under a separate advertisement application, it is not considered reasonable or necessary to include a condition/informative of this nature on this occasion.

In terms of noise, ENVH Officers note that the application is for the warehousing and storage of cars and classic cars. Officers have concerns regarding potential noise sources associated with this use and therefore recommend that a noise impact assessment condition be applied to any consent granted. Additionally, an informative will be included in relation to construction working times, in the interests of residential amenity. No concerns were raised in respect of odour. In the event that planning

permission is approved, a condition/informative is recommended to be attached.

Given the above, and subject to conditions, the proposed development is considered to comply with Kirklees Local Plan Policies LP24 and LP52, and Chapters 12 and 15 of the National Planning Policy Framework

4 - 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.

Access to the site is via the existing access from Nabbs Lane. The submitted application forms confirm that 10 existing parking spaces are to be retained to the rear of the site.

Given the nature of the proposals, the Council's Highways Development Management team were consulted. They note that as the proposed units are to be used for the storage of cars and classic cars and that the existing parking and access arrangements are to be retained, no objection were raised.

Taking the above assessment into account, it is concluded that the proposals would not represent any additional harm in terms of highway safety and as such complies with Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework.

5 - Other Matters:

<u>Contaminated Land</u>

With regard to land quality, Chapter 15 of the National Planning Policy Framework and policy LP53 of the Kirklees Local Plan which seeks to ensure land quality is maintained as part of new development are relevant.

Given the nature of the proposals the Council's Environmental Health Officers were consulted. Environmental Health Officers note that the Council's records indicate that the site is classified as potentially contaminated land due to its former use (site references 6/14, 4/14, and 12/14). Therefore, ENVH Officers originally recommended a full suite of contaminated land conditions. However, the applicant sought to submit a Phase 1 Report authored by Roberts Environmental Ltd, dated April 2023 (ref: 230318.R.001).

The report assesses the site setting and former uses, of which a walkover survey was conducted to inform the risk assessment in April 2023, during which visual and olfactory evidence of potential contamination was observed,

including numerous tanks including staining of the ground and chemicals containers left from the former chemical works. The preliminary conceptual site model developed identifies several potential pollutant linkages. Based on these findings, the report concludes that the environmental risk associated with the site's ground conditions is medium. Therefore, a site investigation is recommended to further assess potential risks prior to redevelopment.

The Council's ENVH Officers accept the report and recommend a revision to the contaminated land conditions they previously proposed on 23rd October 2024 to remove the requirement for a Phase 1 Report to be submitted.

Taking the above into account, subject to the recommended conditions, the proposals are considered to accord with Chapter 15 of the NPPF and LP53 of the Kirklees Local Plan.

Flood Risk/Drainage

Policies LP27 and LP28 of the Kirklees Local Plan, as well as Chapter 14 ('Meeting the challenge of climate change, flooding and coastal change') of the National Planning Policy Framework and the National Planning Policy Framework technical guidance document are considered to be relevant in terms of foul/surface water drainage and flooding risk.

Paragraph 165 of the NPPF sets out that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future).

Given the nature of the site the Council's LLFA team were consulted. They note that whilst part of the site is located within Flood Zones 2 & 3, the proposed storage units are located on higher ground away from the at-risk areas. The proposals will also not increase the drained areas and therefore do not increase flood risk. In addition, no changes to the existing surface drainage are proposed. The LLFA therefore have no comments and support the application with no need for any drainage conditions.

The proposals are therefore considered to accord with Policies LP27 and LP28 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

Biodiversity and Trees

Chapter 15 of the National Planning Policy Framework is relevant, together with the Conservation of Habitats and Species Regulations 2017 which protect, by law, the habitat and animals of certain species including newts, bats and badgers.

Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance.

A Biodiversity Net Gain (BNG) of 10% for developments is a mandatory requirement in England under the Environment Act 2021, subject to some limited exceptions. Unless exempt, every planning permission granted pursuant to an application submitted after 2nd April 2024 (for minor and other applications) is deemed to have been granted subject to a pre-commencement condition requiring a Biodiversity Gain Plan to be submitted and approved by the local planning authority prior to commencement of the development.

Within the submitted application forms the applicant states that the proposals would be exempt from Biodiversity Net Gain (BNG) conditions as the development is subject to the de minimis exemption (development falls below the threshold). Nevertheless, the applicant has provided an Assessment of Biodiversity Net Gain, The Statutory Biodiversity Metric and a Condition Sheet.

The submitted Assessment of Biodiversity Net Gain (BNG) notes that the site comprises of approximately 0.46 hectares of woodland (0.15ha) and urban hard standing/ sealed surface / building (0.31ha). The applicant proposes to enhance the retained grassland from poor quality to moderate quality by:

- Native tree planting to be carried out to increase to 3 age classes and four plus species throughout woodland using 90cm whips at 3m centres.
- Non native eradication from Balsam and Japanese knotweed.
- Small glade creation creating by ringbarking isolated malformed trees to be left as standing deadwood.
- Develop existing regeneration by selective thinning.

The results of the Biodiversity Metric Calculation show that 64.54% of habitat units can be provided at the site and therefore the trading rules are satisfied.

Under the legislation, a condition is in place by law. The biodiversity gain condition has its own separate statutory basis, as a planning condition under paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990. As such, it is not considered necessary for any further condition to be in place upon any grant of permission given the statutory requirements in relation to biodiversity. However, an informative note will be included to highlight this requirement to the applicant.

Local Plan Policy LP33 relates to trees, within this policy it states that the Council will not recommend approval for developments which directly or indirectly threaten trees or woodlands of significant amenity.

There is a woodland TPO (37/95) which protects all surrounding trees on this site.

A Tree Preservation Order is an order made by a local planning authority in England to protect specific trees, groups of trees or woodlands in the interests of amenity. An Order prohibits the:

- cutting down
- topping
- lopping
- uprooting
- wilful damage
- wilful destruction

of trees without the local planning authority's written consent. If consent is given, it can be subject to conditions which have to be followed. In the Secretary of State's view, cutting roots is also a prohibited activity and requires the authority's consent.

Given the nature of the proposals the Council's Trees Officer was consulted. They initially requested further information/clarification on whether any tree works are proposed to facilitate the development and if the new retaining wall requires any ground to be broken. The applicant's agent confirmed via email that no tree works are proposed and that the retaining wall will not involve any excavation works and will be simply stacked on the existing ground so as not to disturb any existing tree roots. The Council's Tree's Officer confirmed that this was acceptable and therefore has no objections.

Climate Change

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

The application is supported by a Climate Change Statement which outlines that insulated panels are to be provided with all materials to be sourced locally and to be of natural materials. Grey water harvesting is to be undertaken, with the provision of bird and bat boxes and a planting scheme at the site. Given the above, it is not considered reasonable or necessary to request any additional information from the applicant in respect of the Council's Climate Change Agenda.

There are no other matters for consideration.

6 – Conclusion

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the proposed development would constitute sustainable development and is therefore recommended for approval.

Recommendation:

Approve.

Decision Authorisation - Delegated Powers

Application Number: 2024/91474

Officer Recommendation: Approve with conditions.

Conditions and Reasons:

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 Policies LP1, LP2, LP3, LP20, LP21, LP22, LP24, LP27, LP28, LP30, LP31, LP33, LP35, LP51, LP52 and LP53 of the Kirklees Local Plan and Chapters 2, 4, 6, 9, 11, 12, 14, 15 and 16 of the National Planning Policy Framework.

2. As further intrusive investigation is recommended within the Phase 1 Report authored by Roberts Environmental Ltd, dated April 2023 (ref: 230318.R.001), received 24th October 2024, 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: This pre-commencement condition is required 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.

3. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 3 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: This pre-commencement condition is required 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. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 4. 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.

5. 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 (that part of) 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.

6. The external walls and roof of the 6 storage units hereby approved shall be finished in either the colour Storm Grey/Greyfriar to match BS. 00-A-13, or Deep Brunswick Green to match BS. BS381C-227 as shown in the British Standard Colour Chart.

Reason: In the interests of visual amenity to preserve and enhance the setting of heritage assets and to accord with Policies LP24 and LP35 of the Kirklees Local Plan and Chapters 12 and 16 of the National Planning Policy Framework.

7. Prior to the development hereby approved being brought into use a noise assessment report by a suitably competent person shall be submitted to and approved in writing by the Local Planning Authority. The report shall include:

   a) an assessment of all noise emissions from the proposed development

   b) details of existing background and predicted future noise levels at the boundary of noise sensitive premises.

   c) a written scheme of how the occupants of the above-mentioned noise sensitive premises will be protected from noise from the proposed development including details of all necessary noise attenuation

   The development shall not be brought into use until all works comprised within the measures specified in the approved report have been carried out in full and such measures shall be thereafter retained.

   Reason: To ensure the proposed development does not cause harmful noise pollution within neighbouring noise sensitive locations, in the interest of amenity, to comply with the aims and objectives of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

8. Before first occupation, a scheme outlining the specific facilities for charging electric vehicles and other ultra-low emission vehicles for each parking space at the premises must be submitted to and approved in writing by the Local Planning Authority. This scheme must meet the minimum requirements in the current West Yorkshire Low Emission Strategy (WYLES) document. The approved facilities for charging electric vehicles must be installed before occupation and retained for use thereafter.

   Reason: In the interest of supporting and encouraging low emission vehicles, in the interest of air quality enhancement, to comply with the aims and objectives of Policies LP20, LP24 and LP47 of the Kirklees Local Plan, Chapters 2, 9 and 15 of the National Planning Policy Framework and the West Yorkshire Low Emission Strategy (WYLES).

9. Before the installation of external artificial lighting commences a lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme should include the following information:

   a) The proposed hours of operation of the lighting

   b) The location of all the luminaires

   c) The proposed design level of maintained average horizontal illuminance for the areas that needs to be illuminated.

d) The predicted vertical illuminance that will be caused by the proposed lighting when
measured at windows of any properties in the vicinity.
e) The measures that will be taken to minimise or eliminate glare and stray light arising from the use of the lighting that is caused beyond the boundary of the site
f) The methods of switching and controlling the lighting so that it is only operated at the permitted times and at times when it is required. No external artificial lighting shall be used unless the lighting has been installed and operated in accordance with the approved scheme.
Reason: To safeguard the amenities of the occupiers of nearby properties and promote sustainable development in accordance with Chapters 2 and 15 of the NPPF and LP52 of the Kirklees Local Plan.

NOTE: Due to its location, a bat roost may be present on site. Bats are a European protected species under regulation 41 of the Conservation of Habitats and Species Regulations 2010. It is an offence for anyone to intentionally kill, injure or handle a bat, disturb a roosting bat, or sell or offer a bat for sale without a license. It is also an offence to damage, destroy or obstruct access to any place used by bats for shelter, whether they are present or not. If bats are found, then contact Natural England.

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

- *Land Contamination Risk Management (LCRM)*
- BS 10175:2011+ A2:2017 *Investigation of Potentially Contaminated Sites. Code of Practice*
- *Development on Land Affected by Contamination - Technical Guidance for Developers, Landowners & Consultants - (v11.2) June 2020* by the Yorkshire and Lincolnshire Pollution Advisory Group.

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

NOTE: All noise assessments should be carried out by a competent person. The applicant may wish to contact the Association of Noise Consultants http://www.association-of-noiseconsultants.co.uk/ (020 8253 4518) or the Institute of Acoustics http://www.ioa.org.uk (0300 999 9675) for a list of members.

NOTE: No construction related noise shall be audible beyond the site boundary outside the hours of:

- 07.30 to 18.30 hours Mondays to Fridays
- 08.00 to 13.00 hours Saturdays

With no construction related noise audible beyond the site boundary on Sundays or Bank/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

NOTE: The proposed design levels of illuminance should be shown to be appropriate for the intended use by reference to appropriate guidance. Generally, to minimise problems of glare and stray light from external artificial lighting it should be installed and maintained in accordance with *the "Guidance Note 01/21 for the Reduction of Obtrusive Light"* by the Institution of Lighting Professionals: 2021 www.theilp.org.uk. The predicted levels of stray light must not exceed the recommended maximum levels given in Table 2 of this guidance for the corresponding Environmental Zone (i.e. E0 to E4).

NOTE: Electric Vehicle Charging Points –

- The electrical supply of the final installation should allow the charging equipment to operate at full rated capacity and the installation must comply with all applicable electrical requirements in force at the time of installation.
- 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 in relation to Approved Document S.

Plans and specifications schedule:-

Plan Type	Reference	Web ID	Date Received
Location Plan	-	-	29th May 2024
Existing Site Plan Topographical Survey	03	-	24th May 2024
Proposed Site Plan Overall Scheme	05	-	24th May 2024
Proposed Plans and Elevations Units 1 2 & 3	06	-	24th May 2024
Proposed Plans and Elevations	07	-	24th May 2024

Proposed Plans and Elevations Unit 4	07	-	24th May 2024
Heritage Statement – Supporting Information	-	-	24th May 2024
Assessment of Biodiversity Net Gain (BNG) – Supporting Information	12084 BNG-SB-V1	Version 1	18th September 2024
Climate Change Statement – Supporting Information	-	-	29th May 2024
Biodiversity Metric Calculation – Supporting Information	-	-	18th September 2024
Biodiversity Metric Condition Assessment – Supporting Information	-	-	18th September 2024
Phase 1 Geo-Environmental Assessment – Supporting Information	230318.R.001	Version 1.0	23rd October 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 preapplication advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. Following receipt of comments from the Council's Trees Officer, further information was requested in respect of the proposed retaining wall and whether any tree works are required to enable the development.

INFORMATIVE NOTE – Biodiversity Net Gain:

Based on the information available, this permission is considered to be one which requires the approval of a biodiversity gain plan before development is

begun because none of the statutory exemptions or transitional arrangements listed below are considered to apply.

Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.

1. The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.
3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and (i)the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or (ii)the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.
4. The permission which has been granted is for development which is exempt being:

4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:

i) the application for planning permission was made before 2 April 2024;
ii) planning permission is granted which has effect before 2 April 2024; or

i) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).

4.2 Development below the de minimis threshold, meaning development which:

i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A "householder application" means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

4.5 Self and Custom Build Development, meaning development which:
i) consists of no more than 9 dwellings;
ii) is carried out on a site which has an area no larger than 0.5 hectares; and
iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

4.6 Development forming part of, or ancillary to, the high-speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High-Speed Rail (Preparation) Act 2013.

* “original planning permission means the permission to which the section 73 planning permission relates” means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions.

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans. The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

The effect of section 73D of the Town and Country Planning Act 1990

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission (“the earlier Biodiversity Gain Plan”) there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the

biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted:

i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and
ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

Report Dated:

20th November 2024.