

**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:	2024/62/91571/E
Site Address:	DC Ground And Tree Care, Station Lane, Heckmondwike, WF16 0NF
Description:	Erection of new warehouse/office unit
Recommending Officer:	Nicole Helliwell

DECISION – Conditional Full 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.

Sarah Longbottom

AUTHORISED OFFICER

Date: 19 December 2024

Officer Report

Reference No. 2024/62/91571/E

Site Address: DC Ground And Tree Care, Station Lane, Heckmondwike, WF16 0NF

Proposal: Erection of new warehouse/office unit.

Site Description

The application relates to a parcel of land located off Station Lane in Heckmondwike. The wider area comprises a combination of residential and commercial properties of varying materials and architectural styles. The site is not within a conservation area, nor are there any listed buildings or public right of ways within close proximity.

Description of Proposal

The applicant is seeking planning permission for the erection of a new warehouse/office unit. The details of the proposal are summarised below:

- The unit would comprise a warehouse at ground floor level and office space at first floor level
- The unit would have an overall width of approx. 10.25m and a depth of approx. 25.4m.
- The unit would have an overall height of approx. 8.05m and an eaves height which ranges from approx. 6.52m – 6.82m due to changes in ground level.
- Construction Materials – Concrete panels with artstone at first floor level for the external walls and grey plastic coated sheeting for the roof
- The proposal would create a car park comprising 25 off road parking spaces
- The proposed opening hours would Monday to Saturday 7.00am to 17:00pm
- There would be 16 full time employees.

History of negotiations/amendments received

Additional information was sought during the course of the application. KC Trees initially reviewed the proposal and confirmed that an Arboricultural Impact Assessment and an Arboricultural Method Statement would be required. This information was later submitted by the applicant's agent and was considered acceptable in this regard.

Relevant Planning History

- **2020/93072:** Discharge conditions 6-12 on previous permission 2019/92096 for erection of warehouse for B8 use (storage and distribution) and associated works. [Planning application details | Kirklees Council](#) – Discharge of Condition(s) Refused

- **2019/92096:** Erection of warehouse for B8 use (Storage & Distribution) and associated works. [Planning application details | Kirklees Council](#) – Conditional Full Permission
- **2005/92244:** Installation of car park lighting. [Planning application details | Kirklees Council](#) – Conditional Full Permission
- **92/01528:** Conversion of existing factory building to form food preparation area and offices. [Planning application details | Kirklees Council](#) – Conditional Full Permission

Representations

The application was advertised by neighbour letters, which expired on 4th November 2024. As a result of the above publicity, 11 representations have been received. The comments made have been summarised below:

- The proposals have a detrimental impact on the amenity of the residents of Sheila Terrace in regard to noise, light pollution, drainage and unauthorised out of hours working.
- The proposals do not assess the impact of highways safety on Station Lane caused by an increase of vehicles accessing and egressing the site.
- Environmental concerns (trees, drainage, biodiversity, flood risk, climate change, etc) have been inadequately resolved in the submission meaning that lots of conditions could be stipulated on a Decision Notice which the applicant is unlikely to comply with given previous track record on the site.
- The proposed building is not compliant with other statutory requirements and calls into question the competency of the agent
- The increase in traffic will be significant and given the very narrow pavement along Sheila Terrace/Station Lane accidents and serious injury are just waiting to happen.
- Station Lane was not designed to handle heavy traffic flows and particularly larger vehicles. The increased traffic will have serious impact on highways safety for vehicles and pedestrians and for pedestrian traffic. It could also cause structural damage to existing buildings thus costing more in repairs.
- All these items will significantly reduce the values of properties along Sheila Terrace/Station Lane.
- The application is submitted with several technical reports. Many of these have been re-used from the 2019 application and do not take into account the intensification of use on the site.
- These documents are now five years' old and therefore out of date and should not have been accepted during the validation process.
- We have no confidence that the applicant would adhere to any future approvals, associated conditions and recommendations, if this new application was granted.

- The proposals demonstrate a 130% increase in floorspace which is a significant uplift.
- This new proposal should be considered as over-development of the land and will have a detrimental impact on the amenity of adjoining residents.
- The applicant has stated that hours of operation are 7am to 5pm Monday to Saturday. Currently the operations exceed these times.
- They are often working Sunday evenings in order to prepare for Monday mornings. They are very noisy and cause considerable nuisance.
- Some residents work night shifts and the daytime noise levels have not been mitigated to an acceptable standard.
- The occupants of 5 to 12 Sheila Terrace are sensitive noise receptors and need to be protected from the new development and would expect to be formally consulted regarding any proposals for noise attenuation.
- A noise assessment has not been submitted as part of this planning application.
- Currently the basements of Sheila Terrace flood in periods of heavy rainfall. We are concerned that the intensification of the site; and an increased tarmac hardstanding with inadequate surface water drainage will exacerbate this issue for the residents.
- The proposal to erect an additional warehouse on this site would generate significant carbon emissions.
- The climate change form has been answered with the word 'NONE' on most questions. The applicant has therefore demonstrated complete disregard for climate change save for the installation of a small number of Electric Vehicle charging points.
- The new proposal will increase the number of trips and vehicles to and from the site.
- How many more trips by commercial vehicles will be generated? What are the hours of operation and trips?
- Station Lane is a narrow very busy road with limited visibility on the bend near the proposed access. What mitigation measures will the applicant put in place to ensure the safety of residents and other road users as vehicles are turning?
- The existing fence, hardstanding and visibility splays have not been shown on the site plan. The gates have been erected flush to the inside face of the footpath and do not appear to facilitate access for larger vehicles turning in and out of the site without having to manoeuvre into both lanes of Station Lane. This is dangerous and could cause highway safety issues.
- The design and access statement confirms that vehicles can enter and egress the site in forward gear, but no evidence has been provided to support this assertion.
- Vehicle tracking for the largest commercial vehicles, fire appliances and bin lorries needs to be provided

- No lighting assessment or proposals have been submitted with the planning application.
- The applicant currently utilises spotlighting which causes glare into the rear of Sheila Terraces and was implemented without any control from the local planning authority.
- We would not accept that a lighting scheme should be conditioned on this application as we do not believe that the applicant would abide by any details, even if they were to be approved.
- There is a lack of acoustic and visual screening between the employment use and residential properties.
- Existing trees to the rear of Sheila Terrace have been retained and the plans indicate new planting, which is welcomed, but the tree screening requires regular maintenance so that they do not cause a nuisance.
- Currently many of the trees are overgrown and are dangerous and causing nuisance to the residents.
- The plans do not show adequate facilities for the separation, storage and collection of waste.
- The plans do not allow for the needs of disabled people and do not appear to be in accordance with the relevant requirements of the Building Regulations.
- There are no accessible car parking spaces shown.
- There is no provision for a lift, platform lift or even the flexibility to retrofit one at a later stage.
- No accessible WC facility is shown.
- A disabled user could not adequately manoeuvre around within the office space (for example no 1500mm dia turning circles, limited doors with a 300mm leading edge etc).
- No shower provision is shown thus discouraging workers to visit site with cycles.
- No cycle shelter or cycle spaces are shown.
- The unit has been operational since circa 2021 and the new proposals represent a 130% increase in floor space. This demonstrates a substantial intensification of use on this site
- It is our opinion that the development under application 2019/62/92096/E is unlawful and should be treated as such by Kirklees Council.
- The applicant appears to have shown a blatant disregard for the planning process and does not appear to have implemented any recommendations set out in the technical reports submitted in 2019.

Parish/Town Council Comments

Not Applicable.

Local Ward Members

Not Applicable.

Consultation Responses

The following is a brief summary of Consultee advice (more details are contained in the 'Assessment' section of the report, where appropriate):

KC Environmental Health – No objection subject to recommended conditions

KC Lead Local Flood Authority – No objection

The Environment Agency – No objection subject to recommended condition

KC Trees – No objection

KC Highways Development Management – No objection subject to recommended conditions

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 site is UNALLOCATED on the Kirklees Local Plan Proposals Map. However, it is located within the Strategic Green Infrastructure Network. The most relevant policies for consideration in this case are:

Kirklees Local Plan Policies

- **LP 1** - Achieving Sustainable Development
- **LP 2** - Place Shaping
- **LP 3** - Location of New Development
- **LP 21** - Highways and Access
- **LP 22** - Parking
- **LP 24** - Design
- **LP 27** - Flood Risk
- **LP 30** - Biodiversity & Geodiversity
- **LP 31** - Strategic Green Infrastructure Network
- **LP 33** - Trees
- **LP 52** - Protection and Improvement of Environmental Quality
- **LP 53** - Contaminated and Unstable Land

In this case, the following SPDs are applicable:

- Highways Design Guide SPD (adopted 4th November 2019)
- Biodiversity Net Gain Technical Advice Note (adopted 29th June 2021)

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published December 2024, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- **Chapter 2** - Achieving Sustainable Development
- **Chapter 4** - Decision-Making
- **Chapter 6** - Building a Strong, Competitive Economy
- **Chapter 11** - Making Effective Use of Land
- **Chapter 12** - Achieving Well-Designed Places
- **Chapter 14** - Meeting the Challenge of Climate, Flooding and Coastal Change
- **Chapter 15** - Conserving and Enhancing the Natural Environment

Assessment

1. Principle of Development

The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF.

Policy LP3 states that development will be permitted where it supports the delivery of employment growth in a sustainable way including the delivery of jobs. As the development proposed would create permanent employment opportunities, it would meet Policy LP3 and the NPPF Chapter 6.

In this case, the principle of development on the application site is considered acceptable, and shall be assessed against other material planning considerations, including visual and residential amenity, as well as highway safety and other matters that may arise.

2. Impact on Visual Amenity

Policy LP24 of the Kirklees Local Plan states that proposals should promote good design by ensuring the form, scale, layout, and details of all development respects and enhances the character of the townscape, extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details.

The NPPF also 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.”

The building proposed would be two storeys in height and would comprise a warehouse at ground floor level and office space at first floor level. The external walls of the unit would be faced in concrete panels with artstone at first floor level. The building would also incorporate a dual-pitched roof finished in grey plastic coated sheeting. Although the structure would have a large scale, it would be of a simple form and would not appear incongruous given the significant scale of the site. Furthermore, a distance of approximately 51m would be retained to the footway such that it would have limited visibility from public vantage points. For these reasons, it is considered that the proposed development would not have any significant visual impact on the character and appearance of the surrounding area.

Having taken into account the above, it is considered that the proposed development would be acceptable from a visual amenity perspective, in accordance with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the NPPF.

3. Impact on Residential Amenity

Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be outlined, taking into account Policy LP24 c), which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers.

The submitted plans confirm that no residential properties located north, west and south of the application site would be affected by the proposed works.

Impact on 9-12 Sheila Terrace

9-12 Sheila Terrace are a row of terraced properties located south-east of the application site. The submitted plans demonstrate that a distance of approximately 39m would be retained between the proposed unit and 9-12 Sheila Terrace. Furthermore, given the indirect relationship between the properties including their habitable windows, officers consider that there would be no further harm to the neighbour's residential amenity with regard to overbearing, overshadowing, or overlooking impact.

Impact on 403 Norristhorpe Lane

403 Norristhorpe Lane is a residential property located south-west of the application site. It is noted that the proposed development would occupy a

position approximately 49m from the rear elevation of the neighbouring dwelling. Given that the separation distance retained would be substantial, it is considered that there would be no significant detrimental impact on the amenity of no.403 as a result of the proposed development.

Having considered the above factors, the development proposed would have an acceptable impact upon the residential amenity of the neighbouring occupants and would comply with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties and Paragraph 135(f) of the National Planning Policy Framework.

4. Impact on Highway Safety

Local Plan Policies LP21 and LP22 of the Kirklees Local Plan are relevant and seek to ensure that proposals do not have a detrimental impact on highway safety and provide sufficient parking. Furthermore, Paragraph 116 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.

This application seeks approval for the erection of a new warehouse/office at DC Ground And Tree Care, Station Lane, Heckmondwike. As such, KC Highways Development Management have been formally consulted as part of the application. The submitted site plan demonstrates that there is provision for 25 vehicles, including 3 EV charging points. Whilst Officers did note that no disabled parking spaces have been provided, a condition requiring the provision of a disabled car parking space has been added to the decision notice.

It is noted that a new vehicle access 7.3m wide is proposed into the site. An independent speed survey was carried out by Sanderson Associates to ascertain whether visibility splays of below 2.4m x 43m could be accepted. The 85th-percentile speeds (adjusted for wet weather) were returned as 22.3mph for southwest-bound traffic and 26.0mph for northeast-bound traffic. These speeds are commensurate with safe stopping distances of 28.6m and 35.2m respectively. With the introduction of a 2m footway to the front of the site, visibility splays of 31.8m and 38.7m are achieved when measured 0.6m into the carriageway. These figures are above the recommended minimums, and represent a marked improvement compared to both existing access points for the disused car park facility. Given this, KC Highways have confirmed that the scheme is considered acceptable subject to the recommended conditions.

In view of the above, it is considered that the proposal would not cause detrimental harm to the safe and efficient operation of the highway network, in accordance with Policies LP21 and LP22 of the Kirklees Local Plan, guidance within the Council's Highways Design Guide SPD, and Chapter 9 of the National Planning Policy Framework.

5. Other Matters

Carbon Budget

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

In this case, due to the nature of the proposal is not considered reasonable to require the applicant to put forward any specific resilience measures.

Noise

There is potential for a loss of amenity from noise either breaking out from the warehouse or from yard activities. As such, KC Environmental Health have recommended a condition for the submission of a Noise Impact Assessment which should cover all operational noise in the interests of protect the amenity of neighbouring properties.

Contaminated Land

This site has been identified on the council's mapping system as being adjacent to potentially contaminated land (Our map ref 160/5). Therefore, KC Environmental Health have recommended a condition for any unexpected contamination encountered during any groundworks.

Construction Noise

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

Electric Vehicle Charging Points (EVCPs)

Approval under the Building Regulations will be required for any electric vehicle charging points, and the applicant should contact their Building Control Provider for further information in relation to Approved Document S.

Trees

The submitted Arboricultural Report and Impact Assessment (reference no. AWA6324 rev. 01, dated November 2024) sufficiently details what impact the proposals will have on the existing trees located on the site. The only impact appears to be the removal of three trees that make up part of G2. This is considered a tolerable loss as they are category C trees and their removal is not going to change the overall landscape of the area significantly. Furthermore, the submitted Arboricultural Method Statement (reference no. AWA6324AMS rev. 01, dated November 2024) sufficiently details what measures will be taken to ensure the retained trees on site are protected during construction. On this basis, KC Trees raise no objection to the proposed development and have no further comments.

Drainage

The submitted FRA and Drainage Strategy produced by JNP relates to the previous building (now existing) to the north of the proposed new warehouse. The floor plan indicates that the new building is approx. 220m² in plan area and appears to be partially within an area of existing hardstanding. As such, the LLFA do not consider that the proposed new warehouse will increase flood risk and therefore do not require any attenuation of surface water discharge off-site. However, the developer should take into account any Yorkshire Water requirements if the proposed discharge is to public sewer.

Flood Risk

The Environment Agency's Flood Map for Planning shows that the site lies within Flood Zones 2 and 3, with a medium/high probability of flooding from rivers and/or the sea. The application is for warehousing and office, which are considered to be a 'less vulnerable' land use in Annex 3 of the National Planning Policy Framework. A Flood Risk Assessment by JNP Group Consulting Engineers (reference no. B23668-JNP-52-XX-RP-1001, dated November 2019) has been submitted in support of the application. The Environment Agency have confirmed that the proposed development will only meet the National Planning Policy Framework's requirements in relation to flood risk if the recommended condition is imposed.

Ecology

The application site is located within the bat alert layer on the Council's mapping system. As such, an Ecological Impact Assessment (reference no. BE-1146.1a rev. A, dated 8th November 2019) has been submitted with the application. The report recommends that the development should include the

incorporation of bat and bird boxes to enhance the ecological value of the site. As such, it is considered that the proposed development is acceptable providing that the works are carried out in accordance with the recommendations within the Ecological Impact Assessment.

Biodiversity Net Gain

Chapter 15 of the NPPF relates to conserving and enhancing the Natural Environment. Paragraph 192 of the NPPF outlines that decisions should promote the protection and recovery of priority species and identify and pursue opportunities for securing net gains for biodiversity. Paragraph 193 goes on to note that if significant harm to biodiversity resulting from development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Policy LP30 of the Kirklees Local Plan echoes the NPPF in respect of biodiversity and outlines that development proposals should minimise impacts on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist.

There have been updates to Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021, which result in biodiversity net gain being a statutory requirement. Biodiversity Net Gain (BNG) of 10% for developments is a mandatory requirement in England under the Environment Act 2021.

Details of the proposal's contribution have been provided. The document confirms that, post development, there would be a 12.96% increase in the habitat units on site and a 10.76% increase in Hedgerow units. There has been no change in Watercourse Units. As such, no further offsite contribution is required.

There are no other matters considered relevant to the determination of this application.

6. Representations

Eleven representations were received following the statutory publicity. The comments made have been summarised and addressed below:

- The proposals have a detrimental impact on the amenity of the residents of Sheila Terrace in regard to noise, light pollution, drainage and unauthorised out of hours working.

Response: *These matters have been addressed within the 'Other Matters' section of the report. Furthermore, the proposal's potential impact to the*

neighbouring properties has been assessed within the 'Residential Amenity' section of the report.

- The proposals do not assess the impact of highways safety on Station Lane caused by an increase of vehicles accessing and egressing the site.

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

- Environmental concerns (trees, drainage, biodiversity, flood risk, climate change, etc) have been inadequately resolved in the submission meaning that lots of conditions could be stipulated on a Decision Notice which the applicant is unlikely to comply with given previous track record on the site.

Response: *These matters have been addressed within the 'Other Matters' section of the report. Should the applicant not comply with any conditions on an approval, this would be a matter for the Planning Compliance team.*

- The proposed building is not compliant with other statutory requirements and calls into question the competency of the agent

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

- Station Lane was not designed to handle heavy traffic flows and particularly larger vehicles. The increased traffic will have serious impact on highways safety for vehicles and pedestrians and for pedestrian traffic. It could also cause structural damage to existing buildings thus costing more in repairs.

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

- The increase in traffic will be significant and given the very narrow pavement along Sheila Terrace/Station Lane accidents and serious injury are just waiting to happen.

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

The proposals do not assess the impact of highways safety on Station Lane caused by an increase of vehicles accessing and egressing the site.

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

- We have no confidence that the applicant would adhere to any future approvals, associated conditions and recommendations, if this new application was granted.

Response: This matter would not constitute a material planning consideration. Non-compliance with an approval and any conditions imposed would be a matter for the Planning Compliance team.

- All these issues will significantly reduce the values of properties along Sheila Terrace/Station Lane.

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

- This new proposal should be considered as over-development of the land and will have a detrimental impact on the amenity of adjoining residents.

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

- The design and access statement confirms that vehicles can enter and egress the site in forward gear, but no evidence has been provided to support this assertion.

Response: The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.

- Vehicle tracking for the largest commercial vehicles, fire appliances and bin lorries needs to be provided

Response: The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.

- There are no accessible car parking spaces shown.

Response: A condition has been added to the decision notice requiring the car park to include one disabled parking space.

- Currently the basements of Sheila Terrace flood in periods of heavy rainfall. We are concerned that the intensification of the site; and an increased tarmac hardstanding with inadequate surface water drainage will exacerbate this issue for the residents.

Response: This matter has been addressed within the 'Other Matters' section of the report.

- The new proposal will increase the number of trips and vehicles to and from the site.

Response: The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.

- It is our opinion that the development under application 2019/62/92096/E is unlawful and should be treated as such by Kirklees Council.

Response: This would be a matter for the Planning Compliance team and would require a complaint to be submitted in order for this to be investigated.

- The applicant appears to have shown a blatant disregard for the planning process and does not appear to have implemented any recommendations set out in the technical reports submitted in 2019.

Response: This matter would not constitute a material planning consideration. This would be a matter for the Planning Compliance team and would require a complaint to be submitted in order for this to be investigated.

- Currently many of the trees are overgrown and are dangerous and causing nuisance to the residents.

Response: This matter has been addressed within the 'Other Matters' section of the report.

- Environmental concerns (trees, drainage, biodiversity, flood risk, climate change, etc) have been inadequately resolved in the submission meaning that lots of conditions could be stipulated on a Decision Notice which the applicant is unlikely to comply with given previous track record on the site.

Response: These matters have been addressed within the 'Other Matters' section of the report.

- The proposals demonstrate a 130% increase in floorspace which is a significant uplift.

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

- A noise assessment has not been submitted as part of this planning application.

Response: A condition has been added to the decision notice requiring a noise assessment to be submitted prior to the commencement of works on site.

- There is a lack of acoustic and visual screening between the employment use and residential properties.

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

- The occupants of 5 to 12 Sheila Terrace are sensitive noise receptors and need to be protected from the new development and would expect to be formally consulted regarding any proposals for noise attenuation.

Response: *This matter has been addressed within the 'Other Matters' section of the report.*

- Existing trees to the rear of Sheila Terrace have been retained and the plans indicate new planting, which is welcomed, but the tree screening requires regular maintenance so that they do not cause a nuisance.

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

- The climate change form has been answered with the word 'NONE' on most questions. The applicant has therefore demonstrated complete disregard for climate change save for the installation of a small number of Electric Vehicle charging points.

Response: *These matters have been addressed within the 'Other Matters' section of the report.*

- No accessible WC facility is shown.

Response: *This matter would not constitute a material planning consideration and would be addressed in a subsequent application for Building Regulations approval.*

- There is no provision for a lift, platform lift or even the flexibility to retrofit one at a later stage.

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

- The unit has been operational since circa 2021 and the new proposals represent a 130% increase in floor space. This demonstrates a substantial intensification of use on this site.

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

- The proposal to erect an additional warehouse on this site would generate significant carbon emissions.

Response: *The proposal's impact on climate change has been addressed within the 'Other Matters' section of the report.*

- No shower provision is shown thus discouraging workers to visit site with cycles.

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

- Station Lane is a narrow very busy road with limited visibility on the bend near the proposed access. What mitigation measures will the applicant put in place to ensure the safety of residents and other road users as vehicles are turning?

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

- They are often working Sunday evenings in order to prepare for Monday mornings. They are very noisy and cause considerable nuisance.

Response: *Any complaints regarding existing noise levels should be reported to the Environmental Health team via the Council website.*

- The existing fence, hardstanding and visibility splays have not been shown on the site plan. The gates have been erected flush to the inside face of the footpath and do not appear to facilitate access for larger vehicles turning in and out of the site without having to manoeuvre into both lanes of Station Lane. This is dangerous and could cause highway safety issues.

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

- The plans do not allow for the needs of disabled people and do not appear to be in accordance with the relevant requirements of the Building Regulations.

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

- The applicant has stated that hours of operation are 7am to 5pm Monday to Saturday. Currently the operations exceed these times.

Response: *This would be a matter for the Planning Compliance team to investigate should a formal complaint be received by them.*

- A disabled user could not adequately manoeuvre around within the office space (for example no 1500mm dia turning circles, limited doors with a 300mm leading edge etc).

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

- How many more trips by commercial vehicles will be generated? What are the hours of operation and trips?

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

Furthermore, the proposed opening hours would Monday to Saturday 7.00am to 17:00pm.

- Some residents work night shifts and the daytime noise levels have not been mitigated to an acceptable standard.
Response: *Any complaints regarding existing noise levels should be reported to the Environmental Health team via the Council website.*
- The applicant currently utilises spotlighting which causes glare into the rear of Sheila Terraces and was implemented without any control from the local planning authority.
Response: This would be a matter for the Planning Compliance team to investigate should a formal complaint be received by them
- No cycle shelter or cycle spaces are shown.
Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*
- The application is submitted with several technical reports. Many of these have been re-used from the 2019 application and do not take into account the intensification of use on the site.
Response: *The submitted reports have been reviewed by the relevant consultees and have been considered acceptable.*
- These documents are now five years' old and therefore out of date and should not have been accepted during the validation process.
Response: *The submitted reports have been reviewed by the relevant consultees and have been considered acceptable.*
- No lighting assessment or proposals have been submitted with the planning application.
Response: *Although no external lighting has been proposed, any lighting should be installed in accordance with the details contained within the submitted Ecological Impact Assessment.*
- We would not accept that a lighting scheme should be conditioned on this application as we do not believe that the applicant would abide by any details, even if they were to be approved.
Response: *Although no external lighting has been proposed, any lighting should be installed in accordance with the details contained within the submitted Ecological Impact Assessment.*
- The plans do not show adequate facilities for the separation, storage and collection of waste.
Response: *A condition has been added to the decision notice requiring details of suitable storage, bin presentation points and access for*

collection of wastes to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development on site.

7. Conclusion

This application for the erection of a new warehouse/office unit at DC Ground and Tree Care has been assessed against relevant policies in the development plan as listed in the policy section of the report, the National Planning Policy Framework and other material considerations. Given the acceptable design and lack of harm in terms of visual and residential amenity, the proposed development is considered 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. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

Recommendation: Approve

Decision Authorisation - Delegated Powers

Application Number: 2024/91571

Officer Recommendation: Approve

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.

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2, LP3, LP21, LP22, LP24, LP27, LP30, LP31, LP33, LP52 and LP53 of the Kirklees Local Plan, the guidance within the Council's Highways Design Guide SPD and the aims of the National Planning Policy Framework.

3. The office/warehouse unit hereby approved shall be faced in concrete panels with artstone at first floor level for the external walls and grey plastic coated sheeting for the roof. The materials of construction shall thereafter be retained for the lifetime of the development.

Reason: In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and the aims of Chapter 12 of the National Planning Policy Framework.

4. Before construction work commences, 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 the nearest 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: This pre-commencement condition is necessary 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.

5. Before construction work commences, details of suitable storage, bin presentation points and access for collection of wastes shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be provided before first occupation and shall be so retained thereafter.

Reason: This pre-commencement condition is necessary in the interests of visual amenity and highway safety and to accord with the requirements set out in Local Plan Policy LP24 part d(vi).

6. If contamination, the presence of coal and/or evidence of coal workings not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all works in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Works in the affected area shall not recommence until either (a) a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy.

Following completion of any measures identified in the approved Remediation Strategy a Verification Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as that part of the site has been remediated in accordance with the approved Remediation Strategy and a Verification Report in respect of those works has been approved in writing by the Local Planning Authority.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 196 and 197 of the National Planning Policy Framework.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any order revoking and re-enacting that order) any gates or barriers for or over a vehicular access or egress shall

be set back 9m from the back of footway and shall be hung as to only open inwards. So long as such gates or barriers are in position, they shall be retained to only open inwards.

Reason: In the interest of highway safety and to avoid the need for vehicles to wait in the highway in accordance with Policy LP21 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

8. Notwithstanding the submitted plans and details, the parking layout hereby approved shall include one disabled car parking space. This parking space shall thereafter be retained for the lifetime of the development.

Reason: In the interest of highway safety in accordance with Policy LP21 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

8. Means of access to and from the site shall be in accordance with the preliminary access design(s) as shown on the approved plan reference no. 24-31-2 and delivered prior to first occupation of the development and thereafter retained and maintained for the lifetime of the development.

Reason: To ensure the free and safe use of the highway, in the interest of highway safety and in accordance with Policy LP21 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

9. The development shall be carried out in accordance with the submitted flood risk assessment (reference no. B23668-JNP-52-XX-RP-1001) and the following mitigation measures it details:

- Finished floor levels shall be set no lower than 55 metres above Ordnance Datum (mAOD)
- There shall be no ground raising in flood zone 3

Reason: To reduce the risk of flooding to the proposed development and future occupants in accordance with LP27 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

NOTE: The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Local Highway Authority is required. You are required to consult the Local Highway Authority Design Engineer (Kirklees Street Scene: 01484 221000) at the earliest opportunity in the development process to obtain approval of the design details, agree the mechanism for delivery, and obtain the necessary permissions / permits to enable the delivery of the site access(es). This process will involve entering into a Section 38 or 278 agreement of the Highways Act 1980 or other appropriate agreement to enable delivery of the works. The applicant is advised to make early contact with the Local Highway

Authority Design Engineer, to ensure that the delivery of the works does not delay occupation of the development.

NOTE: The construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution.

NOTE: The approved vehicle parking areas will need to be surfaced and drained in accordance with the Communities and Local Government; and Environment Agencies 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or superseded.
www.communities.gov.uk/publications/planningandbuilding/pavingfrontgarden

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: 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: A Standard Electric Vehicle Charging Point is one which is capable of providing a continuous supply of at least 16A (3.5kW) and up to 32A (7kW). The higher output is more likely to be futureproof. At non-residential developments, the requirement for one standard electric vehicle charging point for at least 10% of parking spaces may initially be reduced to one

charging point for at least 5% of parking spaces with the remainder provided at an agreed trigger point. The electrical supply of the final installation should allow the charging equipment to operate at full rated capacity. The installation must comply with all applicable electrical requirements in force at the time of installation.

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 intentionally to kill, injure or handle a bat, disturb a roosting bat, or sell or offer a bat for sale without a licence. 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.

NOTE: The new development is located within Flood Zone 2 and the LLFA advises that the developer produces an Evacuation Plan (if one is not already in place) to instruct staff working at the new facility of the route to a place of safety in the event of flooding of the site.

NOTE: The granting of planning permission does not override any private legal rights or consents that may be required. It is the responsibility of the applicant / developer to ensure that all appropriate consents are in place prior to any development commencing; during the period of construction existing access for neighbouring properties is maintained; and no damage is caused to the access driveway or surrounding properties.

NOTE: The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in the floodplain of a main river if the activity could affect flood flow or storage and potential impacts are not controlled by a planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03708 506 506. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

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

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

- 07.30 and 18.30 hours, Mondays to Fridays
- 08.00 and 13.00hours, Saturdays
- With no working Sundays or Public Holidays

In some cases, different site-specific hours of operation may be appropriate. Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which the works may be carried out.

Plans and specifications schedule:

Plan Type	Reference	Revision	Date Received
Location Plan	-	-	19/09/2024
Proposed	24/31/1	-	19/09/2024
Proposed	24/31/2	-	19/09/2024
Coal Mining Risk Assessment	B23668-JNP-11-00-RP-1000	-	19/09/2024
Technical Note	11536-TN-01	-	19/09/2024
Flood Risk Assessment	B23668-JNP-52-XX-RP-1001	-	19/09/2024
River Condition Assessment Report	ER-7780-02	-	19/09/2024
Letter from Yorkshire Water	W002964	-	19/09/2024
Drainage Strategy	B23668-JNP-52-XX-RP-1002	-	19/09/2024
Ecological Impact Assessment	BE1146.1	A	19/09/2024
Arboricultural Report and	AWA6324	01	03/12/2024

Impact Assessment			
Arboricultural Statement	Method	AWA6324AMS	01 03/12/2024
Biodiversity Assessment	Net Gain	ER-7780-01A	- 19/09/2024
Design and Access Statement		-	- 19/09/2024
Climate Change Statement		-	- 19/09/2024

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Planning Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. Additional information was sought during the course of the application, KC Trees confirmed that the information received was considered acceptable. The applicant's agent has agreed to the pre-commencement condition.

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.

