# KIRKLEES METROPOLITAN COUNCIL
# INVESTMENT & REGENERATION SERVICE

## DEVELOPMENT MANAGEMENT

**Town and Country Planning Act 1990 (as amended)**

**DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS - REGULATION 3 TOWN AND COUNTRY PLANNING GENERAL REGULATIONS 1992 (AS AMENDED)**

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| Reference No: | **2024/48/91901/E** |
| Site Address: | Former Market, Blanket Hall Street, Heckmondwike, WF16 0HD |
| Description: | Change of use from Vacant Land to Public Open Space with ancilliary works |
| Recommending Officer: | Nicole Helliwell |

**DECISION – GRANT UNDER GENERAL REGULATION 3**

**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: 30-Aug-2024**

**Officer Report**
**Reference No.** 2024/62/91901/E
**Site Address:** Former Market, Blanket Hall Street, Heckmondwike, WF16 0HD
**Proposal:** Change of use from Vacant Land to Public Open Space with ancillary works

**Site Description**
The application relates to a parcel of vacant land located off Blanket Hall Street in Heckmondwike. The site is unallocated on the Kirklees Local Plan Proposals Map and was previously occupied by Heckmondwike Market, now demolished. The surrounding area comprises a combination of commercial and residential 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 application seeks planning permission for the change of use of an area of vacant land off Blanket Hall Street to public open space with ancillary works. The details of the proposal are summarised below:
- Areas of the existing block paving are to be repaired and reinstated
- An area of grass would be created along the south-western boundary of the site
- Converted shipping containers for community use
- Concrete benches to be installed

**Relevant Planning History**
- **2023/93128:** Prior notification for demolition of market. Planning application details | Kirklees Council – Demolition Details Approved
- **2006/94272:** Erection of non-illuminated sign to frontage of market hall. – Advertisement Consent Granted
- **2006/90934:** Erection of canopies, installation of entrance doors. Planning application details | Kirklees Council - Granted Under Reg.3 General Regulations

**Representations**
The application was publicised by neighbour notification letters, which expired on 16th August 2024. No representations were received following the statutory publicity.

**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 Trees – No objection
KC Ecology – No comments received

**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. The most relevant policies for consideration in this case are:

- **LP 1 -** Achieving Sustainable Development
- **LP 2** - Place Shaping
- **LP 7** - Efficient and Effective Use of Land and Building
- **LP 21** - Highway Safety and Access
- **LP 22** - Parking
- **LP 24** - Design
- **LP 28** - Drainage
- **LP 30** - Biodiversity & Geodiversity
- **LP 48** - Community Facilities and Services
- **LP 52** - Protection and Improvement of Environmental Quality

**National Policies and Guidance**
National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) updated 20th July 2021, 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 12 -** Achieving Well-Designed Places
- **Chapter 14 -** Meeting the Challenge of Climate Change, Flooding and Coastal Change
- **Chapter 15 -** Conserving and Enhancing the Natural Environment

**Other Guidance Documents:**

- Kirklees Highways Design Guide (2019)
- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)

**<u>Assessment</u>**

**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. In terms of extending and making alterations to a property, Policy LP24 of the KLP is relevant and Chapter 12 of the NPPF, regarding design.

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.

**1. 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.

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."*

As the land does not currently have a designated purpose, it is considered that any harm caused by changing the use would be neutral. However, the submitted plans confirm that some external works would also be undertaken as part of the application. The plans indicate that two converted shipping containers would be installed within the site to facilitate community use. Whilst the containers would have visibility from public vantage points along Blanket Hall Street, they would not be of a scale and size that would dominate the street scene. Furthermore, given the context of the area, it is considered that the containers would not detract from the visual amenity of the street scene.

On this basis, it is considered that the proposal would not have any significant visual impact on the character and appearance of the surrounding area in accordance with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the NPPF.

**2. 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 proposed change of use and associated alterations would not cause any additional overlooking, overbearing or overshadowing harm to the residential amenity of the neighbouring occupants, over and above the existing arrangements on site. Therefore, having considered the above factors, the proposals are not considered to result in any adverse impact upon the residential amenity of any surrounding neighbouring occupants, complying 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.

**3. 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 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.

The proposed change of use and associated works would not materially intensify the use or affect the existing parking arrangements on site. On this basis, 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.

**4. Other Matters**

<u>Climate Change</u>

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.

Contaminated Land

The application site is located adjacent to potentially contaminated land. Therefore, KC Environmental Health have recommended a condition for any unexpected contamination encountered during any ground works.

Imported Materials

The submitted plans show soft landscaping and it is expected that soil will be imported onto the site as part of the development. As such, KC Environmental Health have recommended a condition for the submission of a verification report for any imported soils.

Trees

There are no protected trees on site, however there is a row of trees to the south-west which create a buffer between the development and the Morrisons supermarket adjacent. The plans show a grass buffer between these trees and the proposed market area. This is of a sufficient distance to allow the trees to grow and thrive in the future. The boundary wall which separates the two sites should offer sufficient tree protection during construction. KC Trees have stated that if the boundary wall was to be removed then a tree protection plan and method statement should be submitted in order to prevent any damage to these trees. However, during a site visit, it was noted that this wall had already been removed, therefore, it was considered that the recommended condition would not be necessary.

Ecology

The application form states that the development subject to the de minimis exemption, would be exempt from providing Biodiversity Net Gain. At this stage, Officers are only able to assess this on the basis of submitted information. Should the proposal be considered not exempt by reason of not being this or other relevant categories for the scale of the development then an appropriate condition, supported by a BNG metric submitted for the approval of the LPA, would be required to ensure on-site BNGs would last for at least 30 years to meet the requirements of this legislation.

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

## 5. Representations

No representations were received following the statutory publicity.

## 6. Negotiations

No amendments were sought or received during the course of the application.

## 7. Conclusion

This application for the change of use of vacant land to public open space with ancillary works at Former Market, Blanket Hall Street 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**: 2024/91901
**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, LP7, LP21, LP22, LP24, LP28, LP30, LP48 and LP52 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. 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. 189 and 190 of the National Planning Policy Framework.

4. Before the site is brought into use, a strategy detailing the intended placement, the source, characterisation and the suitability of any imported material must be submitted to and approved in writing the Local Planning Authority. The testing to demonstrate suitability must then be carried out in accordance with the approved strategy. Following importation and placement of the materials as described in the approved 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 until a Verification Report has been approved in writing by the Local Planning Authority.
**Reason:** This condition is necessary to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and Paragraph nos. 189 and 190 of the National Planning Policy Framework.

**NOTE:** All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework. 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:** 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:** 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 | LA-001 | - | 05/07/2024 |
| Indicative_Layout | LA-101 | - | 05/07/2024 |
| Market Square Visual | - | - | 05/07/2024 |

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. In this case, the design of the original scheme has been found acceptable. No further amendments or details were sought thereafter.

**Report Dated: 20/08/2024**