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:	**2024/62/92062/W**
Site Address:	Former Staff Car Park, Land of Willow Lane, Birkby, Huddersfield, HD1 5EB
Description:	Change of use of land for siting of a secure self-storage facility (maximum of 93 movable storage containers) (within a Conservation Area)
Recommending Officer:	Katie Chew

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.

John Holmes

AUTHORISED OFFICER

Date: 7th November 2024

Officer Report

Site Description

Former Staff Car Park, Land of Willow Lane, Birkby, Huddersfield, HD1 5EB

The application site relates to an area of hardstanding previously used as a car park ancillary to the adjacent Britvic factory. The site is an irregular shape broadly triangular and extends to an area of approximately 0.25 hectares. The site is bounded by mature planting across all boundaries, with dry stone walling to the south and west. Due to a difference in land levels the application site is set at a lower ground level to adjacent public highways Willow Lane and St Johns Road.

To the north and west of the site are residential dwellings, to the north-west, east and south are commercial/industrial units. To the south-west is St. Johns Church.

The application site is located within Birkby Conservation Area, adjacent to several Listed Buildings to the north and south-west.

Description of Proposal

The application seeks planning permission for the change of use of land for siting of a secure self-storage facility (maximum of 93 movable storage containers) (within a Conservation Area).

The proposed development comprises of a linear arrangement of storage containers around the site perimeter with a central 'island' of containers to allow efficient usage and parking for visitors whilst maintaining circulation for vehicles.

As outlined within the submitted Planning Statement, all shipping containers brought to the site are to be new 'single trip' shipping containers of a uniform colour that have not previously been used. The facility would be operational mainly during daytime hours with more domestic storage users accessing the site on early evenings and weekends. No outdoor external storage is to be allowed, with all storage being located within the containers. It is anticipated that users would access the site for a short period of time to load and unload their vehicle.

No formal landscaping is proposed as part of the development, however timber fencing of a height of 1.5m is proposed to be erected along the northern boundary where planting and screening is more limited.

The site is to be accessed via the existing vehicular entrance from Willow Lane.

History of negotiations/amendments received

Additional information / clarification was requested in respect of the proposals and their impact on trees following on from comments received from the Council's Trees Officer. In addition, an amended plan was submitted which outlined the installation of a 1.5m high timber fence along the northern boundary of the site in line with comments received from the Council's Conservation & Design Officer. It was also agreed that the storage containers would be dark green/black in colour. Highways Officers also requested the submission of further information in respect of access, parking and storage of waste.

Relevant Planning History

The following is relevant to the site:

2015/90841 – Variation condition 4 (opening hours) on previous permission 2014/92515 for change of use from B2 to a Community Hub and Church, mixed class D1 and D2 use. Approved 5th June 2015.

2014/92515 – Change of use from B2 to Community Hub and Church, Mixed Class D1 and D2 use. Approved 7th November 2014.

2011/92007 – Removal of existing dry-stone wall to front of service yard, erection of 2.0m high paladin fence and controlled access gate for staff and visitors, and secure the service yard with a 2.0m high fence including HGV access gates. Approved 29th September 2011.

Representations

Final publicity date expiry:

Neighbour Letters – Expired 10th September 2024.

Site Notice – Expired 30th August 2024.

Press Notice – Expired 14th September 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 located within Birkby Conservation Area, adjacent to several Listed Buildings and a Public Right of Way.

Consultation Responses

Highway Development Management (informal) – Comments received 17th October 2024. Highway Officers queried how the site would operate and be managed and therefore requested the submission of a site management plan,

they also queried whether there would be a need for waste storage on site, and if so waste storage and collection points must be shown on plan. Officers also requested the submission of a swept path analysis to show that a Kirklees fire service vehicle can both access and turn within the site in case of an emergency and provision of 12 parking spaces for customers and staff within the site.

Officer note: Following receipt of the above comments, the applicant's agent has provided a swept path analysis, amended site plan which shows access arrangements, and an email which outlines how the site is to operate, details of any employees and waste storage.

Officer note: The Council's Highways Officers have appraised the further information and confirm that these details are acceptable and have no further objection to the proposals.

The Environment Agency – No comments have been received within statutory timescales.

KC Public Rights of Way (PROW) – No comments have been received

KC Ecology Unit – No comments received within statutory timescales.

KC Conservation & Design (C&D) (informal) – Comments received 26th September 2024. No objections overall but do have some concerns in respect of the relationship between the proposed storage containers to the north of the site and the listed buildings nos. 7 & 9 Bay Hall. It was suggested that a hatched area be provided on plan of which the applicant would be unable to store containers, this is in the interests of preserving and enhancing the setting of these Listed Buildings. In addition to this, it was requested that the storage containers be of a dark colour such as black or dark green, to ensure that the containers blend in with the site and are not overly prominent.

Officer note: Following discussions with the applicant's agent it was agreed that providing a hatched area to the entrance of the site, adjacent to the above listed buildings would not be in the best interests of the operation of the site and may lead to the overall development not being viable for the applicant. The previous use of the site was for HGV storage and the containers are considered to have less impact than HGV's. A compromise was therefore considered to be achievable by provision of a 1.5m high timber fence along the northern boundary of the site to help provide additional screening of the proposed development. This is deemed to be acceptable.

KC Trees – Comments received 24th September 2024. Object to the proposals until an Arboricultural Impact Assessment is submitted, and clarification is provided on the method of hardstanding to be used.

Officer note: Following on from the receipt of the above comments, the applicant's agent confirmed via email on the 24th September 2024 that the containers are to sit upon existing tarmac and that the applicant will not be

breaking ground or replacing tarmac elsewhere. In so far as the concerns of dampness, these are shipping contained and are therefore well sealed and certainly not prone to dampness given their previous use. It is therefore considered that an AIA would not be required to be submitted. The Council's Trees Officer agreed with the above conclusion but did state that they need to know whether any pruning is proposed to facilitate the shipping containers being put in place. A Tree Protection Plan would also be required to be submitted to ensure that the trees are protected during the units being installed as manoeuvring large contained can result in significant damage to trees in close proximity.

Officer note: The applicant's agent responded to the above via email confirming that no pruning will be undertaken at the site and that the containers will not be stacked upon one another. They also requested that the submission of a Tree Protection Plan be conditioned prior to the first container being brought onto site. This was deemed acceptable by Officers.

KC Environmental Health – Comments received 28th August 2024. No objections subject to the imposition of conditions in relation to land contamination, hours of use and artificial external lighting.

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 Birkby Conservation Area, adjacent to several listed buildings to the north and south-west. The site is also located within a Bat Alert Area, and partially within a Source Protection Zone. It is also important to note that PROW HUD/340/10 runs to the east of the application site along the proposed access route into the site, and the site is bounded by several protected trees and a Wildlife Habitat Network Combined Area.

Kirklees Local Plan (LP):

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP3** – Location of new development
- **LP7** – Efficient and Effective use of Land and Buildings

- **LP21** – Highway safety and access
- **LP22** – Parking
- **LP24** – Design
- **LP30** – Biodiversity and Geodiversity
- **LP33 –** Trees
- **LP34 –** Conserving and enhancing the Water Environment
- **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 Polices 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 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) Impact on visual amenity and heritage assets
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

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 chapter 2 of the National Planning Policy Framework.

Policy LP2 sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Policy LP24 of the KLP is relevant and states that "good design should be at the core of all proposals in the district".

NPPF Paragraph 11 and Policy 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. The site was previously used as a car park for the adjacent former Britvic Factory which closed in June 2013. The site 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 reflect other commercial/industrial uses within the area.

In conclusion, the proposal would provide an employment generating use adjacent to an allocated Priority Employment Area, 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 the development in the local area, thus retaining a sense of local identity.

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

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

c. extensions are subservient to the original building, are in keeping with the existing buildings in terms of scale, materials and details…".

As the application site is located within Birkby Conservation Area, and is adjacent to several Grade II and Grade II* buildings to the north and south-west it is important to assess any potential impact the proposals would have on these heritage assets.

Section 66 of the Planning (Listed Buildings & Conservations Areas) Act (1990) 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.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act (1990) requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the appearance or character of the Conservation Area.

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

Policy LP35 of the Kirklees Local Plan will also be taken into account, stating 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".*

Paragraph 205 of the NPPF states: "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…". This is further supported by paragraph 208 of the NPPF outlines that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this weight should be weighed against the public benefits of the proposal.

The proposals seek to provide a secure self-storage facility for a maximum of 93 moveable storage containers. The storage containers are to be 2.5m in height and approximately 6m in length and 2.4m in width. The storage containers are to be laid out around the periphery of the site, with an 'island' of containers in the middle. The land is to remain tarmacked, with the storage containers simply placed on top of the existing hardstanding. The storage containers are of a typical utilitarian design, suitable for their proposed use.

Regarding the historic environment, the site is located within the Birkby Conservation Area and is also in close proximity to Grade II and Grade II*

Listed Buildings. the site was historically used as a car park for the adjacent former Britvic Factory and includes a significant amount of hardstanding.

Given the nature of the application and its location, the Council's Conservation & Design (C&D) team were consulted. They raised no objections to the principle of the development noting that the site is currently vacant and makes a negative contribution to the character and significance of the Conservation Area. It is also considered that the development's impact on the adjacent Grade II* Listed Church to the south is low as most of the development would be set down from the public highway due to the topography of the land, and would be screened by an existing dry stone boundary wall and mature planting which is both protected under the Conservation Area and comprises of several TPO's (Tree Protection Orders). However, C&D Officers did raise some concerns in respect of the adjacent Listed Buildings nos. 7 & 9 Bay Hall which are located to the north of the application site. This is due to the reduced amount of landscaping and somewhat open nature of the site to the north.

Following discussions with the applicant's agent it has been agreed that the proposed storage containers are to be of either a black or dark green colour, this is to ensure that the containers blend in more seamlessly with the surrounding planting and therefore do not appear overly dominant or imposing within the site. This will be secured via a condition. In addition to this, amended plans have been submitted which include the installation of a 1.5m high timber fence along the northern boundary where planting and screening is somewhat more limited. A condition would also be included limiting the height to no more than 3m and requiring no stacking of the containers.

Whilst Officers appreciate that the development of the vacant car park is going to change the nature of the site, the provision of self-storage containers is considered to be somewhat transient and with the above conditions in place, it is considered that the impact on these heritage assets is lessened and that the public benefits arising from redeveloping a vacant site and the benefits of doing so for users of the site including the associated employment opportunities is considered to outweigh the less than substantial harm of the development particularly taking account of the realistic fall back which could take place for the parking of vehicles, including those which are of a greater size than the containers.

In summary, the proposed development is considered have an acceptable impact with regard to visual amenity of the area by developing a plot which has an untidy and derelict appearance. This type of development would not be out of keeping with the surrounding area and the layout, scale and appearance of the development are such that the proposals would successfully integrate with surrounding development subject to conditions.

It is therefore concluded that the proposed development, subject to the recommended conditions, is visually acceptable, and whilst less than substantial harm would be caused to the Conservation Area and adjacent Listed Buildings, this would be outweighed by the public benefits of the

proposal. As such the scheme is considered to comply with Policies LP1, LP2, LP24 and LP35 of the Kirklees Local Plan, Chapters 12 and 16 of the NPPF and S66 and S72 of the Planning (Listed Buildings and 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.

Impact on nos. 7 & 9 Bay Hall

These neighbouring properties are located to the north of the application site, approximately 20+ metres away. Given the nature of the proposals and that the storage containers are to be single storey in height, Officers have no concerns in respect of the proposals appearing overbearing or overly dominant in this location, or that they would result in overlooking or raise concerns of privacy, or overshadowing. It is also noted that a 1.5m high timber fence is to be erected along the northern boundary of the site, where the landscaping is more diminished. This is in the interests of visual amenity and protecting heritage assets, but also to ensure that there is suitable screening from a residential amenity perspective.

Impact on nos. 77-91 St Johns Road

These neighbouring properties are located to the west of the application site, approximately 30+ metres away. Given the large separation distances Officers have no concerns in respect of overlooking, overshadowing, or the proposals appearing overbearing in nature on these adjacent residential dwellings.

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 and given the nature of the application and its close relationship with residential dwellings, the Council's Environmental Health team were consulted, they note that the applicant has submitted a Noise Impact Assessment authored by Miller Goodall dated 04 June 2024 Ref 103154. This report considers the potential impact from patrons using the site, including vehicle movements, on existing noise sensitive receptors (NSRs) as identified in section 2.

The assessment is based upon 90 containers and para 3.3 states it is based upon 24/7 operation stating it is to understand the potential for future flexibility of the site. However, it is only for the proposed daytime business hours as follows –

- 0700hrs - 1900hrs Monday to Saturday
- 1000hrs - 1600hrs on Sundays

A background noise assessment was conducted between the 24th and the 28th of May 2024 from a single measurement position as shown in Appendix 3, adjacent to the nearest residential boundary. The dominant source was road traffic, and a summary of the findings is given in table 4.

Modelling has been undertaken using library data for Transit type vans using the site with the resultant levels 10m from the source shown in table 5. A BS4142 assessment has been conducted and after applying a +6dB correction for impulsiveness (banging sounds from loading), the daytime impact is deemed to be negligible. Though the application is for daytime use, A BS4142 assessment has been conducted for nighttime and similarly, indicates a negligible impact although not as wide a margin.

The findings of the report are accepted by the Council's ENVH team.

It is also noted that the proposed hours of use are as follows -

- 0700 - 1900hrs Monday to Saturday
- 1000 - 1600hrs on Sundays

A condition is recommended to secure these hours in the interests of protecting amenity.

Finally, the applicant has submitted a Lighting Assessment authored by Miller Goodall dated 12 July 2024 Ref 103154V2. It assesses the potential obtrusive lighting impacts associated with the development to the surrounding sensitive receptors as shown with in table 3.

Based upon the location of the luminaires to be installed as stated in para 7.1.1 and the specification as per 7.3.1, the lighting assessment meets the requirements for 'regular vehicle traffic' as per table 2. The assessment indicates there is no exceedance for vertical lux for both pre and post curfew as shown in tables 5 and 6. Recommendations are made to control the lighting 'out of hours' and these are made in section 10 including -

- reducing overnight lighting levels to a minimum (such as 5 lux, 75% dimming) and specifying a motion detection system. This will reduce overnight lux levels but maintain the system in a ready state in case a customer visits or a security risk is found.
- Maintain a continuous, but reduced, lighting level overnight, such as half of the daytime level (10 lux, 50% dimming).

Para 10.4 states the motion detection on-time would need to be configured with customer habits and time spent on-site to ensure lighting remains on whilst customers are attending, for safety.

The findings of the report are accepted, and a condition is recommended by ENVH officers to secure compliance in the interest of protecting amenity.

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:

Turning to highway safety, Local Plan Policies LP21 and LP22 are relevant and seek to ensure that proposals do not have a detrimental impact on highway safety and provide sufficient parking. 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 application seeks planning permission for the change of use of land for siting of a secure self-storage facility (maximum of 93 movable storage containers). Given the nature of the proposals the Council's Highways Officers were consulted. Whilst Officers requested the submission of a site management plan, swept path analysis, and whether there would be a need for waste storage on site, as they had queries on how the site would operate and be managed, and whether a Kirklees fire service vehicle could access and turn around in the site, the applicant's agent sought to provide a swept path analysis, amended site plan which shows access arrangements, and an email which outlines that:

'In response, the intention is for the site to operate on the basis that customers access individual storage containers directly from within the internal layout of the site. The containers are arranged in a loop, and users are able to enter the site, access specific containers within the site on a clockwise basis around the loop, and then depart the site in a forward gear and without conflict between vehicles. The loop arrangement allows for a minimum of 6m clear width between containers, and as such there is sufficient space for vehicles to pass the vehicles of other users while loading / unloading at their container. There will be no staff on site. Customers will have

a phone number to ring should they require any information. There is therefore no need for waste storage on site or staff accommodation'.

The Council's Highways Officers have looked over the above information and confirm that these details are acceptable and have no further objection to the proposals.

Whilst it is acknowledged that Public Right of Way HUD/340/10 runs to the east of the application site along the proposed access route into the site, the Council's PROW Officers have not raised any objections to the proposals, and it is noted that the proposals will not see a significant change to the existing access and how it was previously used when the application site formed a car park for the former Britvic Factory. Officers therefore have no concerns in respect of the proposals impact upon this Public Right of Way on this occasion.

It is therefore concluded that the scheme would not represent any additional harm in terms of highway safety and as such complies with Local Plan Policies LP21 and LP22 and Chapter 9 of the National Planning Policy Framework.

5 - Other Matters:

Contaminated Land

With regard to land quality, paragraphs 180, 189 and 190 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.

The applicant has submitted a Geoenvironmental Desk Study Report authored by JPG dated 15 July 2024 Ref 6367-JPG-XX-XX-RP-G-0601-S2-P01. The Council's Environmental Health Team accept this report which recommends the submission of a Phase 2 as stated in section 6 and conditions are therefore recommended to secure this. Officers consider this to be sufficient mitigation and therefore the proposals are considered to accord with Policy LP53 of the Kirklees Local Plan and Chapter 15 of the NPPF.

Biodiversity

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.

The submitted *draft* Biodiversity Gain Plan by Temple Group Ltd (ref: T10860) shows a baseline of 1.00 habitat units. The proposed development is predicted to lead to the loss of an estimated 0.14 ha of baseline habitat. Small areas of ground level planters with a shade tolerant native species mix will be installed between the containers. The proposed development is to lead to a post-intervention value of 0.56 BU. Resulting in an estimated loss of 0.45 BY (-44.61%) on site. Appendix 3 of the *draft* Biodiversity Gain Plan provides a form from the Department for Environment Food & Rural Affairs, this form states that the applicant seeks to produce 0.5 biodiversity units off-site to meet the required 10% net gain, this is to be off-site due to there being no scope for further enhancement of the site.

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.

The site is within a bat alert zone, Paragraphs 180, 186, 187 and 188 of Chapter 15 of the National Planning Policy Framework are 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.
The nature of the development is considered to be such that it would have a minimal impact upon bats, given the extent of lighting is not considered to be significant given the extent of lighting as set out in the submitted lighting details. A condition to ensure all lighting is in accordance with this would be included on any grant of permission.

Subject to inclusion of the condition and informative the proposal is considered to be acceptable with regard to the aforementioned policy and legislation.

Trees

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.

The majority of the trees located on site are Protected by TPO 04/05 and sit within Birkby conservation area.

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 note that due to the close proximity of the trees to the existing tarmac, there is likely to be a large number of roots present underneath. The applicant's agent has confirmed that the existing tarmac is to be retained, there will be no pruning of the trees and that the containers will not be stacked on top of one another. It has therefore been agreed that the submission of a tree protection plan can be conditioned and must be discharged prior to the first container being brought onto site.

In respect of the proposed fence which is to be erected along the northern boundary of the site, the Council's Trees Officer is happy with the proposals but should concrete posts be used within root protection areas of the protected trees, then only hand dig methods can be used and should be done under the supervision of an arboriculturist so he can judge/prune any roots that may be present. This will be secured via a condition.

Subject to condition the proposal is considered acceptable with regard to trees.

Source Protection Zone

Policy LP34 of the Local Plan relates to conserving and enhancing the water environment. Noting that proposals must:

"1. Ensure no deterioration of water courses or water bodies (including groundwater) by conserving and, where practicable, enhancing:
a. the natural geomorphology of watercourses, including reinstating watercourses to their natural state through removal of modifications resulting from past industrial uses;
b. water quality; and
c. the ecological value of the water environment, including the functionality of habitat networks.

2. Ensure Source Protection Zones are protected from contamination as a result of the proposal in line with national guidance.

3. Dispose of surface water appropriately (in accordance with the Local Plan drainage policy) adhering to the following networks in order of preference:

a. to an infiltration based system wherever possible (such as soakaways);
b. discharge into a watercourse with the prior approval of the landowner, navigation authority or Environment Agency, where applicable. To comply with part 1 of this policy this must be Kirklees Local Plan - Strategy and Policies 137 13 Natural environment following treatment where necessary or where no treatment is required to prevent pollution of the receiving watercourse;
c. discharge to a public sewer. Proposals are encouraged to:

4. Make positive progress towards achieving 'good status or potential' under the Water Framework Directive in surface and groundwater bodies.

5. Manage water demand and improve water efficiency through appropriate water conservation techniques including rainwater harvesting and grey-water recycling as well as considering water availability from surface water and groundwater sources.

6. Improve water quality through the incorporation of appropriately constructed and maintained Sustainable Drainage Systems and surface water management techniques taking into account the sensitivity of groundwater".

Within the supporting text paragraph 13.44 highlights that The Environment Agency has published Source Protection Zones which seek to protect abstractions used for providing the drinking water supply. Generally, the closer an activity is to the Source Protection Zone, the greater the risk of contamination. It is therefore important that Source Protection Zones are protected from contamination as a result of the proposals in line with national guidance to ensure the continuing protection of the water supply in these zones.

The application site is located within a Source Protection Zone 50k, typically, officers would therefore consider it necessary to attach a condition to the decision notice regarding the finding of unexpected land contamination however, given that land contamination conditions are recommended to be included which require further investigation it is considered this would ensure the matter is sufficiently covered and therefore the proposals would comply with Policy LP34 of the KLP and Chapter 15 of the NPPF.

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, this statement outlines that there is no energy demand created by the scheme as it is simply the location of containers on site for self-storage however, containers will be locally sourced where possible.

Due to the small scale and temporary nature of the development proposed, it is not considered that specific mitigation measures are required to facilitate this development to reduce carbon emissions. Furthermore the nature of the use has the potential to reduce the extent of vehicle trips by users of the site dependent upon circumstances of how they use the storage. The proposals are therefore considered to accord with the Council's climate change agenda.

Taking the above into consideration, it is not considered necessary to request and additional information in respect of meeting the Council's sustainability objectives on this occasion.

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 on balance, constitute sustainable development and is therefore recommended for approval.

Recommendation:

Approve.

Decision Authorisation - Delegated Powers

Application Number: 2024/92062

Officer Recommendation: Approve.

Conditions and Reasons:

1. The development hereby permitted shall be begun within three years of the date of this permission.
   Reason: To ensure compliance with 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, expect as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
   Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2, LP3, LP7, LP21, LP22, LP24, LP30, LP33, LP34, 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.

3. The external walls and roof of the storage containers hereby approved shall be of either a Black colour finish to match BS. 00-E-53 or Deep Brunswick Green colour finish to match BS. BS381C-227 as shown in the British Standard Colour Chart. The colour finish of the containers shall be thereafter retained.
   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.

4. The storage containers hereby approved shall at no point be stacked upon another and in any event shall not exceed 3m in height.
   Reason: In the interests of residential and visual amenity, and to preserve and enhance the setting of heritage assets, to accord with Policies LP24 and LP35 of the Kirklees Local Plan and Chapters 12 and 16 of the National Planning Policy Framework.

5. Prior to its installation, a scheme which details how the timber fencing along the northern boundary shall be erected shall be submitted to, and approved in writing by, the Local Planning Authority. The development hereby approved shall not be brought into use until the installation of the fencing has been completed in accordance with the approved scheme which shall be retained thereafter.
   Reason: To protect trees in the interests of visual amenity and to ensure a satisfactory development on completion, to accord with the requirements of Policies LP24 and LP33 of the Local Plan and advice within Chapters 12 and 15 of the National Planning Policy Framework.

6. Prior to the first storage container being brought onto site, a Tree Protection Plan shall be submitted to and approved in writing by the Local Planning Authority. The Tree Protection Plan approved by this

condition shall be adhered to throughout the construction phase of the development.
Reason: To protect trees in the interests of visual amenity and to accord with the requirements of Policy LP33 of the Local Plan and advice within Chapter 15 of the National Planning Policy Framework.

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

   - 0700 - 1900hrs Monday to Saturday
   - 1000 - 1600hrs on Sundays

   and there shall be no deliveries to, or dispatches from the premises outside these hours.
   Reason: To ensure that the proposed use(s) does not give rise to the loss of amenity to nearby residential properties, by reason of noise or disturbance at unsociable hours, to accord with the aims of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

8. No external artificial lighting shall be installed other than that which is installed in accordance with the details provided in the submitted Lighting Assessment authored by Miller Goodall dated 12 July 2024 Ref 103154V2. The installed external artificial lighting shall be operated thereafter in accordance with the approved scheme.
   Reason: To safeguard the amenities of the occupiers of nearby properties and promote sustainable development as well as in the interests of protected species in accordance with Chapters 2 and 15 of the National Planning Policy Framework and policies LP30 and LP52 of the Kirklees Local Plan.

9. As outlined within the approved Geoenvironmental Desk Study Report authored by JPG dated 15th July 2024, Ref: 6367-JPG-XX-XX-RP-G-0601-S2-P01, received 23rd July 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: 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

10. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 9 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: 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.

11. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 10. 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.

12. 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. Where verification has been submitted and approved in stages for different areas of the whole site, a Final Verification Summary Report shall be submitted to and 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.

NOTE: Please note that the granting of planning permission does not overrule private legal rights of ownership, and it is your responsibility to ensure you have the legal right to carry out the approved works as construction and maintenance or parking of vehicles may involve access to land outside your ownership or subject to private rights of way.

NOTE: The applicant / developer's attention is drawn to the requirements of Paragraph 184 of the National Planning Policy Framework which states that

where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

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.

Plans and specifications schedule:-

Plan Type	**Reference**	**Version**	**Date Received**
Site Location Plan	024026-100	-	23rd July 2024
As Existing Site Plan	024026-101	A	23rd July 2024
As Proposed Site Plan	024026-110	C	26th October 2024
20ft Container | As Proposed Plans & Elevations	024026-200	-	23rd July 2024
As Existing & Proposed Site Sections	024026-300	-	23rd July 2024
Swept Path Analysis for West Yorkshire Fire & Rescue 8.680m Fire Tender	ATR-001	-	26th October 2024
Climate Change Statement – Supporting Information	-	-	26th July 2024
Technical Note – Drainage –	6367-JPG-XX-XX-RP-D-0620-	-	23rd July 2024

Supporting Information	S2-P01		
Preliminary Ecological Appraisal – Supporting Information	T10860	1.0	23rd July 2024
Noise Assessment – Supporting Information	103154	1	23rd July 2024
Transport Statement – Supporting Information	31240	1.0	23rd July 2024
Biodiversity Gain Plan – Supporting Information	T10860	1.0	23rd July 2024
Appendix 3: Summary Biodiversity Gain Plan	-	-	26th July 2024
Exterior Lighting Design and Lighting Impact Assessment – Supporting Information	103154V2	3	23rd July 2024
Geoenvironmental Desk Study Report – Supporting Information	6367-JPG-XX-XX-RP-G-0601-S2-P01	-	23rd July 2024
Planning Statement – Supporting Information	-	-	23rd July 2024
Arboricultural Report – Supporting Information	22092/AJB	-	23rd July 2024
Appendix 5: Tree Constraints Plan – Supporting Information	22092/AJB	-	23rd July 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. Additional information and clarification were requested in respect of the proposals and their impact on trees following on from comments received from the Council's Trees Officer. In addition, an amended plan was submitted which outlined the installation of a 1.5m high timber fence along the northern boundary of the site to protect the amenity of adjacent listed dwellings to the north in line with comments received from the Council's Conservation & Design Officer. It was also agreed that the storage containers would be conditioned to be dark green/black in colour. Highways Officers also requested the submission of further information in respect of access, parking and storage of waste.

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;
i) planning permission is granted which has effect before 2 April 2024; or
ii) 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

i) 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).

4.4 Self and Custom Build Development, meaning development which:

i) consists of no more than 9 dwellings;

i) is carried out on a site which has an area no larger than 0.5 hectares; and

ii) 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).

4.5 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

i) 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:

5th November 2024.