

Response to Environment Agency Objection

Phoenix Textiles, Wood Street Mills, Wakefield Road, Sissett

Phoenix Textiles

January 2025

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1. Introduction

1.1 This statement has been prepared in support of an application lodged by Phoenix Textiles Ltd at their existing site at Wood Street Mills in Scissett. The application proposes the demolition of an existing industrial building, and its replacement with a storage and distribution building, alongside car parking and associated engineering works.

1.2 The Environment Agency have objected to the application on the following grounds:

- a) The site sits on an existing main river culvert, carrying the River Dearne
- b) This impacts on the Water Framework Directive, through water biodiversity and effects on the wetland environment- as a result:
 - a. a Flood Risk Activity Permit (FRAP) is required, and;
 - b. the Humber River Basin Management Plan (RBMP) expects the water environment to be protected and enhanced- where the retention of the culvert prevents the reversal of habitat loss and the achievement of good ecological potential.
- c) In this context, the proposal to retain the culvert in contrary to NPPF 180 (now 187 in the revised NPPF) and NPPF 186 (now 193 in the revised NPPF) and Local Plan Policies LP27 and LP34.

1.3 However, the EA note that

It may be possible to overcome our objection by demonstrating, to the satisfaction of the LPA, that the applicant has considered and assessed all practical options for complete or partial de-culverting of the River Dearne in the design of their development, and for maintaining an 8 metre buffer zone from the watercourse wholly, or substantially, free of built development..... If the applicant has considered and rejected options for de-culverting and/or an undeveloped buffer zone, they must provide justification.

1.4 This report sets out the approach adopted and the justification for retaining the culvert in this location. It considers:

- The site and surroundings, including the physical constraints presented by the application site
- The options available for deculverting- and their effects on the applicant's interests
- The process of site selection and alternative sites considered
- General BNG considerations
- Compliance with the relevant policy tests
- The harm arising from the proposals

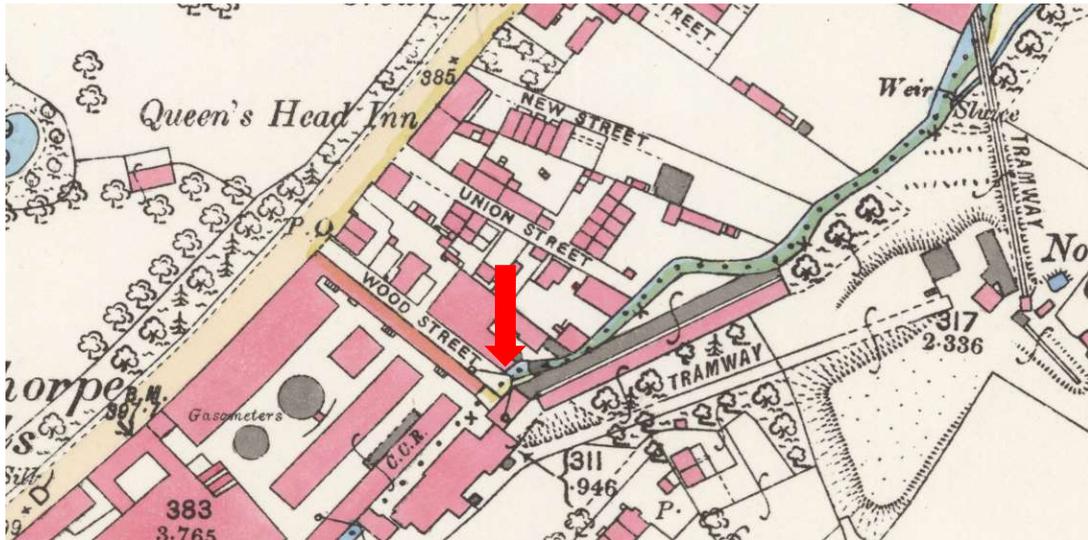
2. Background, Site and Surroundings

The Occupier

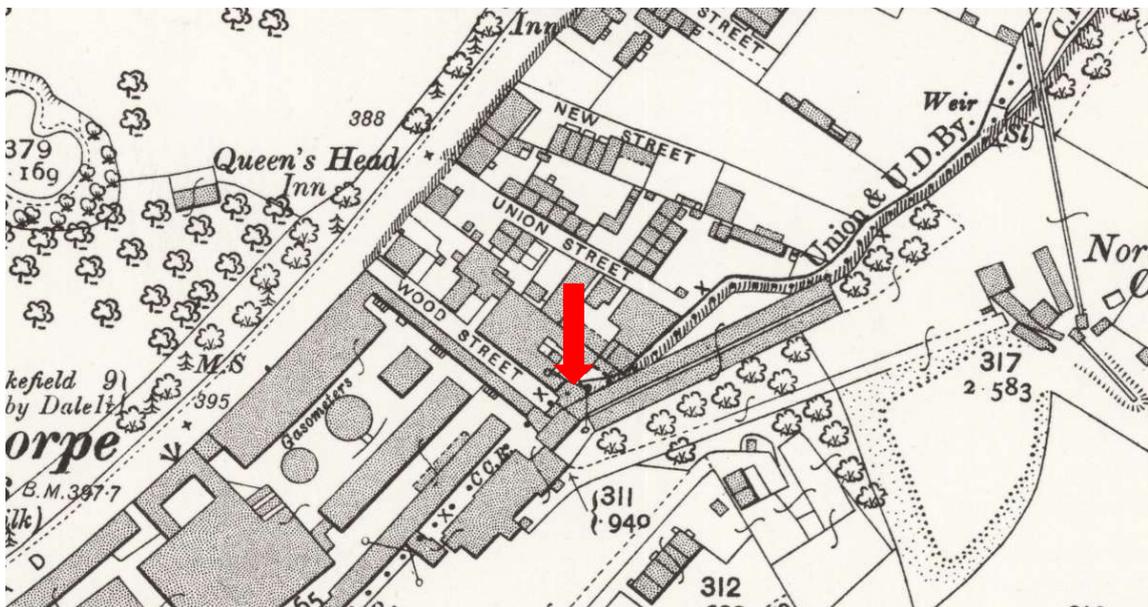
- 2.1 The application site is one of two existing buildings occupied by Clayton West Headquartered Phoenix Textiles. They have manufactured textiles in two mills in the Kirklees area for the last 70 years, and are a leading supplier of rugs and mats. They also develop new textiles, colours and materials to enhance the sustainability of their product line.
- 2.2 Phoenix are a local advanced manufacturing business. The Council's Economic Strategy recognises that advanced manufacturing businesses are the highest value sector in Kirklees, and that the local area has a particular expertise in textiles.
- 2.3 It also sets "*Growth and investment in engineering and advanced manufacturing*" as one of the main "action programmes" to help Kirklees secure modern innovative businesses. Businesses such as Phoenix are a core part of the local economy, and this Council strategy seeks to promote and grow this sector for the benefit of the local economy.
- 2.4 However, Phoenix are struggling to accommodate their business needs. This application seeks to address that issue following a long running exercise of seeking new accommodation or trying to acquire a site to meet their ongoing needs. That exercise is described in Section 4 of this report.

The Site

- 2.5 The site is 0.5Ha and is currently occupied by Phoenix Textiles.
- 2.6 It comprises a number of linked buildings of different ages, scales, and appearance. As they are a series of separate, but linked, buildings the internal configuration is far from ideal- The internal space is extremely inefficient, difficult to manage and presents a number of operational challenges around stock control and management.
- 2.7 The current buildings also now present a maintenance issue- upkeep is difficult and expensive.
- 2.8 The key point of relevance to this report is that 32 metres of the River Dearne is currently culverted under the existing buildings. It is unclear how long this has been the case, but it was certainly partially culverted on the 1891 OS map:



2.9 In 1904, the situation on the ground was similar to the modern condition, with most of the affected section of the Dearne having been culverted by this point:



2.10 It seems clear that the culvert on this site has existed for well over 100 years. The historic mapping also shows that the culverting in this area is intermittent, as noted in the EA letter. A considerable length of river to the west of the site has also been culverted for some considerable time- as shown on the 1929 OS mapping:



- 2.11 The policy desire to see this section of the Dearne opened up is understood, and the benefits would no doubt be notable. However, making a meaningful difference in this area would require a co-ordinated effort across a number of land ownerships. Change on that scale is not within the remit of this application.
- 2.12 It is suggested that the environmental benefits to be secured from opening up this short section of culvert would be limited- it would remain a relatively urbanised section of river, which would have limited potential to be improved, softened or planted to enhance biodiversity.

The Proposed Building

- 2.13 The proposed building looks to address the current operational constraints being faced by the applicant. The application site has historically been used for some manufacturing activities and some storage. However, this application proposes a storage building, to address needs that are not being met that the company’s main manufacturing operation, located at Spring Grove Mills, in Clayton West.
- 2.14 The new building is on broadly the same footprint as the existing, albeit with a slightly lower floorspace.
- 2.15 The existing buildings amount to 2,270sqm, and the new proposal reduces this to 1,886sqm- a reduction of floorplate of 384sqm. This loss of space is compensated for by the enhanced usability of the proposed space, which allows it to be utilised much more efficiently. The new building offers a uniformity in space, removes internal divisions and provides additional height across the site. This allows the space to be managed as a single area and is therefore more operationally efficient.
- 2.16 The proposed building already reduces the amount of floor space on the site. Whilst it is expected that this would be much more efficient overall, the application proposal represents the operational minimum for this business, on this site.

- 2.17 The location of this site is also important. The applicant's main operational headquarters and production centre is only 600m up the road in the centre of Clayton West. There is a requirement for this storage capacity to be in close proximity to the manufacturing base to allow ease of load consolidation.
- 2.18 The issues around securing an alternative site, for both the entire Phoenix Textiles operation- and the current proposal for just this additional storage element- are discussed in detail later in this report.

The surroundings

- 2.19 The surroundings of the site are very densely developed small warehouses and manufacturing buildings. This has been the case since the later Victorian period, as seen in the historic mapping provide above. As a result- and at first glance- it is difficult to discern where the application site starts and ends- It is convoluted and linear in nature.
- 2.20 There is very little capacity in and around any of these industrial buildings for environmental enhancement.

3. Options for Deculverting

3.1 The applicant has considered several options to secure the deculverting of this section of the Dearne. These are:

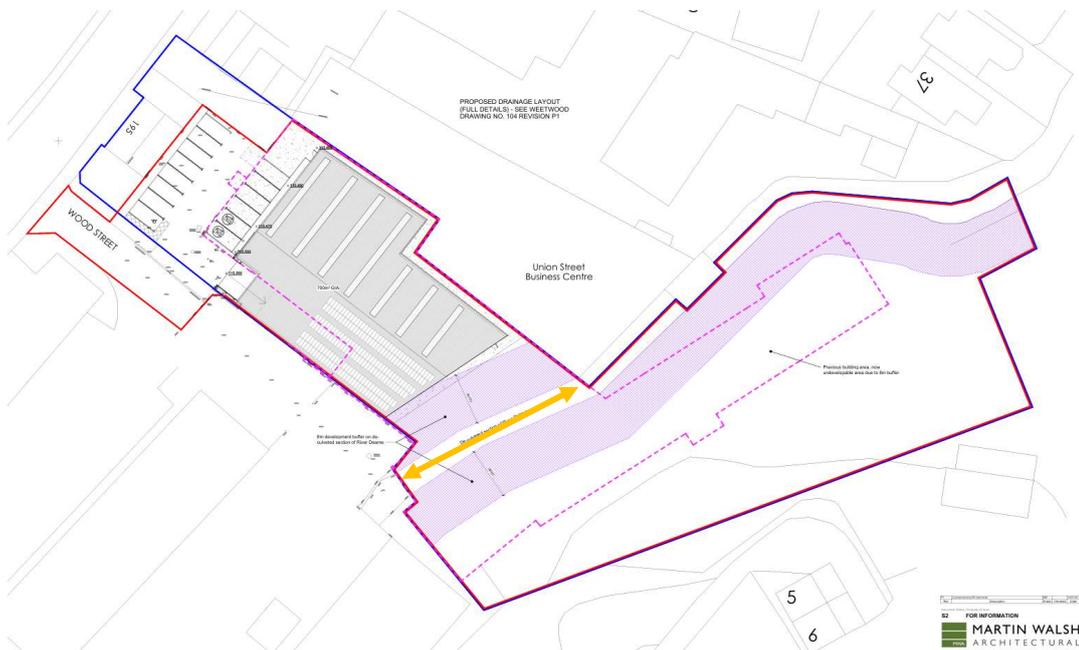
- Open up the section (complete deculverting)
- Open up the section, and bridge over the Dearne (partial deculverting)
- Open up the extreme western part of the culvert, which is not affected by new building footprint (partial deculverting)

3.2 The requirement to provide an 8m buffer on either side of the culvert, which is wholly, or substantially, free of built development, is stated in the EA letter. This requirement has been factored into the applicants review of the possible options.

3.3 These options are considered in detail below.

Open up the section (complete deculverting)

3.4 The project architect has prepared a drawing which shows the effect of deculverting the entire length of the Dearne in the applicant's control. An extract is below:



3.5 The purple area shows the 8m buffers required on each side of the river. The deculverting would allow 32m of the river to be opened up- indicated by the orange arrows above.

3.6 As can be seen, the applicant also controls around half of the width of the Dearne along an additional length to the east-of around 64m.

- 3.7 The section that is fully within the applicant's control could be deculverted. This would generate an additional section of 32m of canalised river. However, it would also reduce the available land for a building from 1,886sqm down to 700sqm, as shown on the plan above.
- 3.8 That would offer a building with 37% of the capacity of that proposed. The current application building of 1,886sqm is already a reduction on the current floorplate and is considered to be an operational minimum for the applicant. A 63% loss of that reduced floorplate would not be operationally achievable and would mean that the applicant would need to abandon this project.
- 3.9 That could lead to the applicant having to look further afield for suitable premises, with the potential loss of a manufacturing business which accords with the Council's current economic strategy. That would not be an acceptable impact from a socio-economic perspective.

Open up the section, and bridge over the Dearne (partial deculverting)

- 3.10 A further option to consider would be to open up the 32m stretch of the river; bridge the open channel and re-provide the lost floorspace on the southern part of the site.
- 3.11 This has not been drawn up, as it is not considered to be a viable option for the following reasons:
- a) The bridging of the Dearne would require the loss of a section of the reduced (700sqm) building discussed above, to allow vehicles to pass to the southern area of the site.
 - b) The bridge would need to be capable of supporting HGV traffic, and so would need to be a well engineered and costly structure.
 - c) There is no space for HGV's to turn once over the bridge. This would require the loss of the existing broadleaved woodland (with a significant bio-diversity effect that would have to be compensated for) and once the vehicle turning space had been achieved there would be no space for any building south of the Dearne.
- 3.12 This is not a practical option and so has been discounted. It simply adds financial and ecological cost with no economic return, and would cause considerably more harm than the benefit derived from the short section of the Dearne that would be opened up.
- 3.13 A more practical alternative would be to provide a building that bridges the Dearne. This would not provide the necessary buffer spaces, but the width of the building could be reduced to the minimum practical width over the buffer zones to allow forklift access across the River and within the building. This would effectively provide a long corridor of building between the north and south of the site.
- 3.14 This approach would reduce the length of the river to be opened up by at least 5m (to allow passing forklift trucks at c.1.5m width, a suitable leeway and the width of two building walls) resulting in a deculverting of around 25/26m.
- 3.15 However, the cost of bridging the river with a building would still be notable.

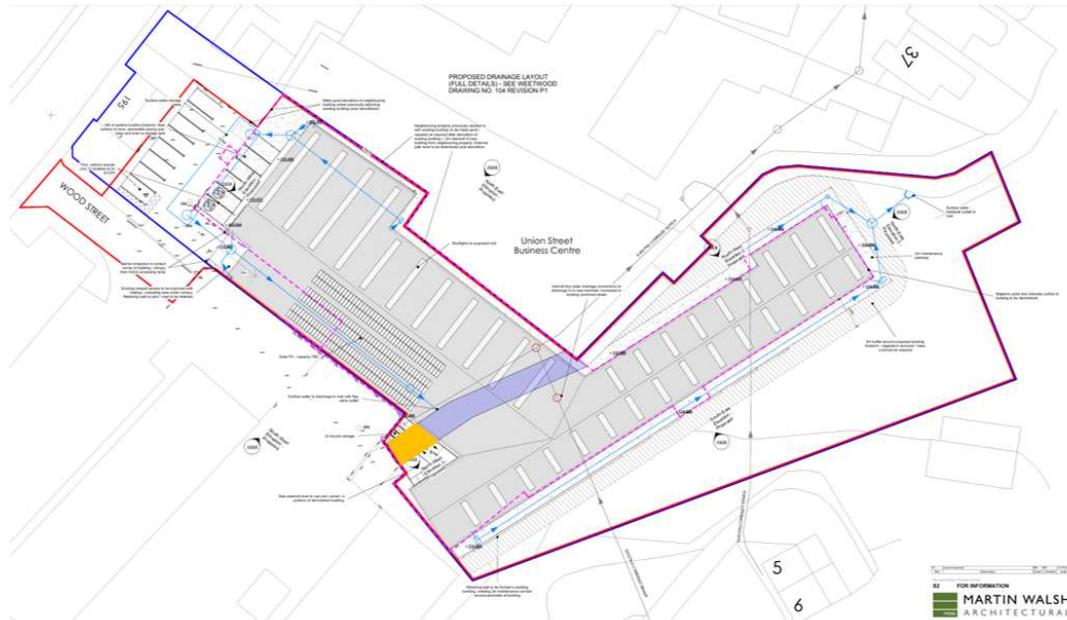
- 3.16 The desire to retain the existing broadleaved woodland would also seriously limit the shape and size of the building that could be achieved to the south of the river once the buffers are provided, as illustrated by the orange area below:



- 3.17 Parts of the remaining area suitable for building are limited to a maximum of around 4m wide, which is barely enough to allow building construction, wall thickness and allow a single forklift to move within the building. It would also produce an unusually shaped building which would not address the operational constraints currently being faced by the applicant with the current buildings.
- 3.18 This is not, therefore, a practical or desirable option from an operational perspective. Equally, it is unlikely to be financially attractive, given the costs of providing a building which does not improve the operational issues being faced by the applicant.

Open up the extreme western part of the culvert, which is not affected by new building footprint (partial deculverting)

- 3.19 There is section of the Dearne which is not within the proposed building footprint. This could be opened to achieve a de-culverting of approximately 6.3m, as illustrated below:



- 3.20 This would require the building to be re-organised – by moving the main pedestrian entrance to the north of the site, where parking is proposed. However, a modest level of deculverting could be achieved.
- 3.21 However, this would be of marginal benefit as the length is just 6m. It would be an isolated section of river with no connectivity benefits and no scope for habitat enhancement. Whilst the applicant is willing to consider and discuss this option, it does not seem to offer a sensible balance of cost to benefit.

Summary of reasons for not proposing to deculvert

- 3.22 Deculverting this short section of space is not practical from a business perspective. It delivers a very modest opening of river habitat that would remain within an operational site and be of limited width.
- 3.23 The opportunity for habitat creation would be extremely limited, and any such habitat would be relatively isolated within the wider mill complex. There is considerable culverted space to the west, and the eastern part of the Dearne is only partially within the applicant’s control so that cannot be deculverted.
- 3.24 Creating a break in this unusually shaped site would significantly reduce the space available to the applicant. The most realistic option that involves deculverting reduces the floorplate to around 1/3rd of the application proposal. This is not a feasible option for the applicant- the cost involved in opening up the river, demolishing the current buildings and replacing them with a building that is too small to meet their needs is simply not a workable solution. If that is required, then this project will be abandoned.
- 3.25 This option would harm their business and would suggest that they need to find an alternative location outside Kirklees. That would result in the District losing a manufacturing business which is contrary to the economic strategy. The extremely limited environmental

gain that would be secured by deculverting would be significantly outweighed by the economic losses for the District.

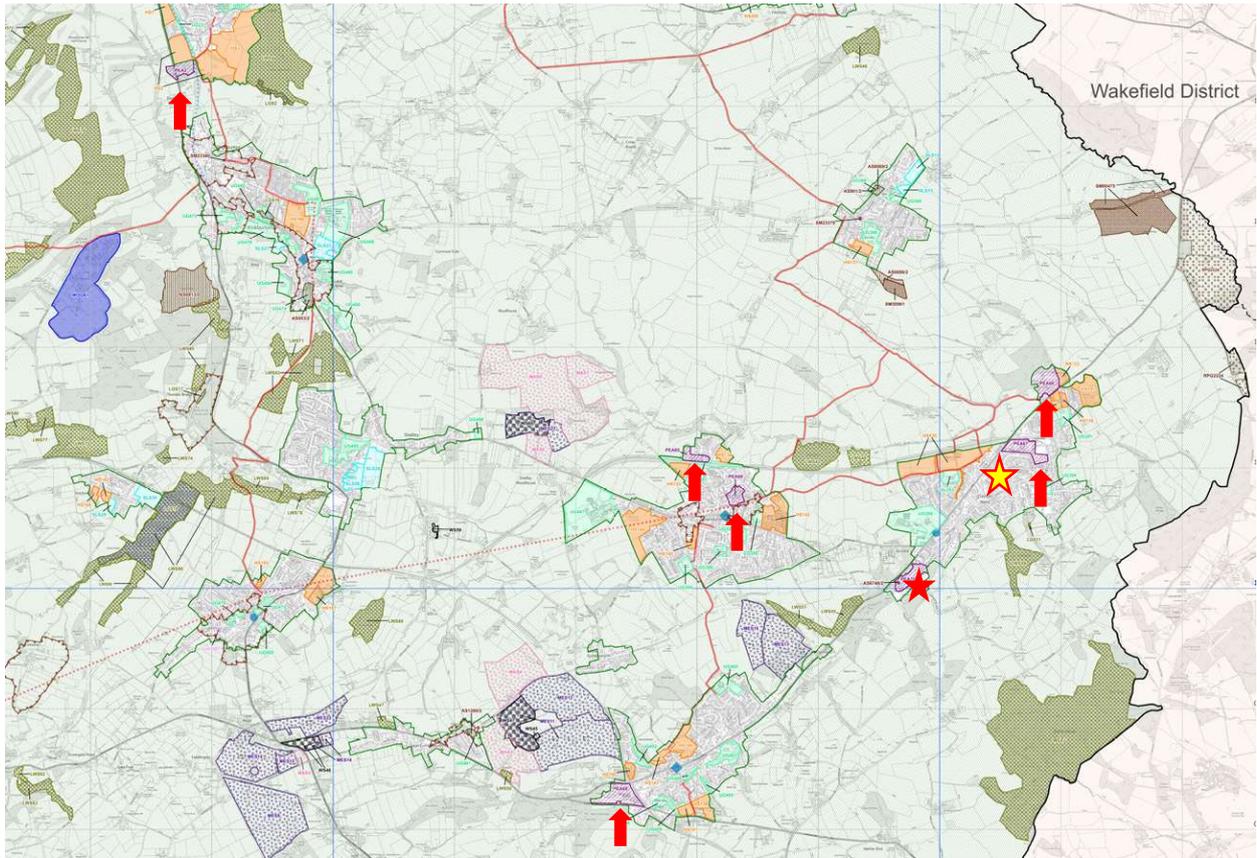
- 3.26 This must also be seen in the context of a culvert which has existed for well over a century and where the chances of securing a wider deculverting are extremely slim.
- 3.27 There is no feasible option to deculvert whilst also accommodating the business needs of the applicant.

4. Site Selection and Alternatives

- 4.1 Having exhausted the options to accommodate the requested deculverting on site, the applicant has considered a number of off-site options.
- 4.2 The applicant has been liaising with Kirklees Council's Inward Investment Team for some considerable time. The rural southern area of Kirklees has a very limited employment land supply.
- 4.3 The original intention was to allocate land at Clayton West in the Local Plan that was adopted in 2019. That allocation was designed to meet needs of businesses that were known to be constrained in this area of the District- of which Pheonox Textiles was one. However, that draft allocation was deleted from the Local Plan by the Inspector, due to concerns about Green Belt loss and how Clayton West would be perceived when approaching from the east. That draft allocation was not replaced in the Local Plan.
- 4.4 There is now an extremely limited supply of available employment land within the applicant's search area.
- 4.5 As a locally based business, Phoenix Textiles have a number of skilled employees living in the rural south east of the district. Their site requirement is for freehold land, of around 3Ha, which would provide a new custom built facility on a single site. That would be the ideal outcome for the business. However, that has not been possible to achieve, as discussed below.
- 4.6 Ideally, the applicant would prefer a complete new facility, but has accepted that this may not be achievable within reasonable timeframes, due to the dearth of suitable land.
- 4.7 Therefore, the current alternative is to utilise their existing land and re-purpose that to be more operationally efficient. This does offer the option of the applicant purchasing an alternative additional site, in order to meet their storage requirements- in effect to replace the application proposals alone. This would need around 0.5Ha.
- 4.8 This latter option, however, is largely theoretical. Whilst they could purchase a smaller satellite operation for storage purposes, that solution is already a compromise position. The main benefit of the current application proposals is that they already own the site and thus would not need to spend money on a land as well as a building. However, for the purposes of completeness, this option is also considered below.

Existing Industrial Sites and Vacant Buildings

- 4.9 The plan below shows a map of the allocated sites in the south east of Kirklees. The application site is indicated by a Red Star, and the applicant's main production site is indicated by a yellow star. Existing employment land is indicated by red arrows:



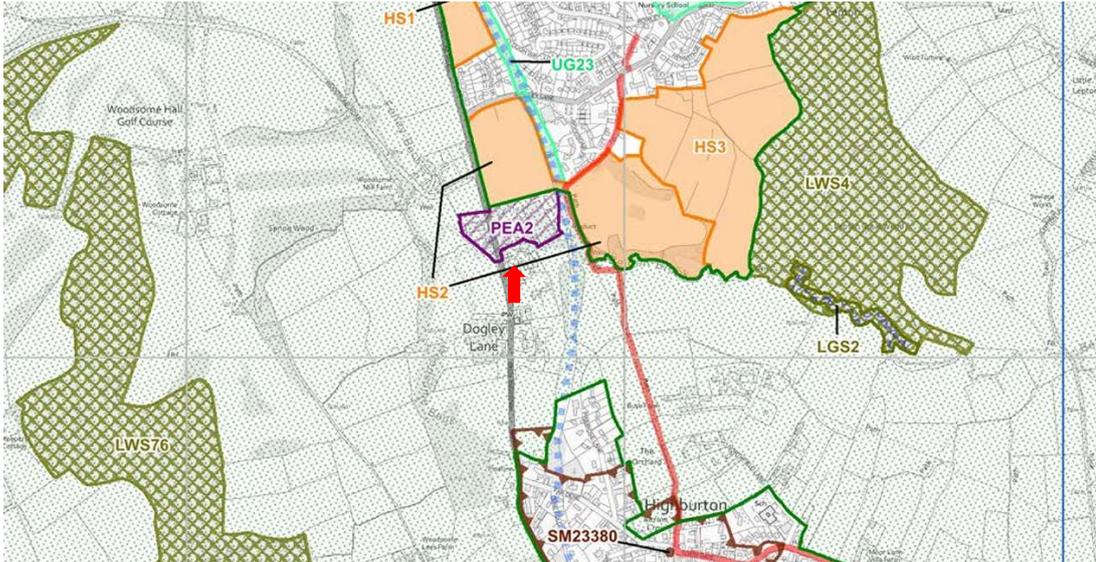
4.10 The following sites are within the relevant catchment area to accommodate this business:

- a) PEA2, Lepton
- b) PEA65, Skelmanthorpe
- c) PEA69, Skelmanthorpe
- d) PEA68, Denby Dale
- e) PEA67, Clayton West
- f) PEA66, Clayton West

4.11 These sites are considered in more detail below. As no new employment land allocations were made in this area through the last Local Plan process, the available sites are all Priority Employment Area designations. These are effectively older employment areas, some of which had small amounts of capacity remaining following earlier development. These are, by definition, constrained sites- however, they were allocated due to the collective available remaining space across that wider portfolio of land.

PEA2, Lepton

4.12 This site is located at the far north western extreme of this businesses search area:

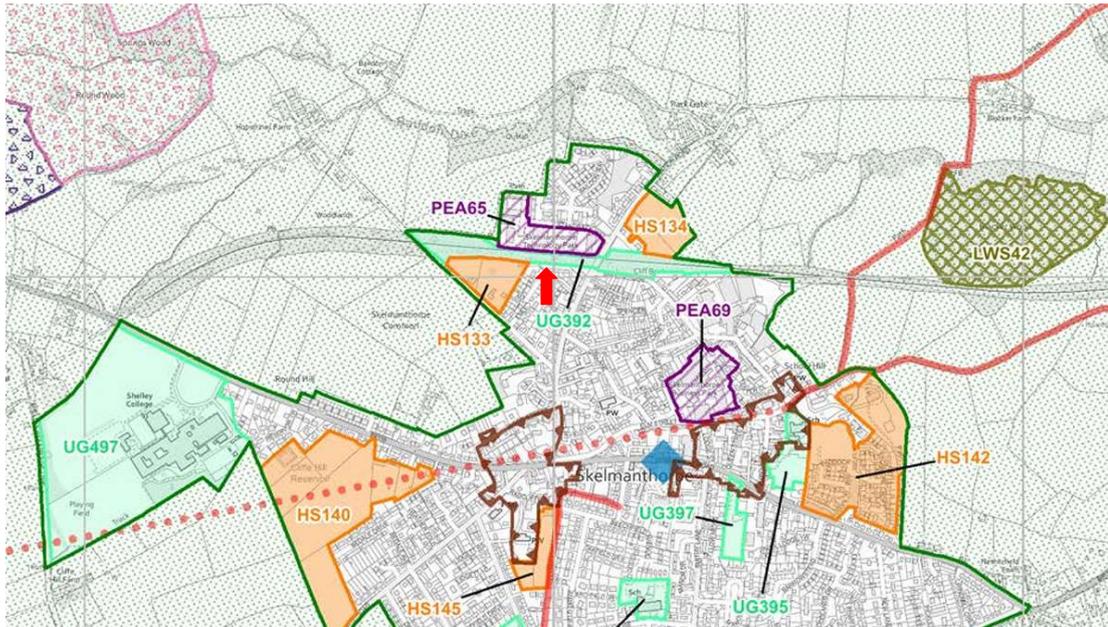


- 4.13 It is currently occupied by Reliance Precision and Paxman Scalp Coolers. Public consultation took place at the end of 2024 showing that Reliance Precision have purchased all of this site and are intending to expand their operation into the area currently occupied by Paxman Scalp Coolers¹.
- 4.14 It is understood that this forthcoming planning application is also a result of a lack of sites available in the south east of Kirklees, which could accommodate Reliance Precision's growth. Whilst no planning application has been lodged at the time of writing, it is understood that such an application will be forthcoming in the very near future.
- 4.15 This site is not available for the applicant as it is already being redeveloped for an existing advanced manufacturing business in the area. It is not feasible for the applicant to relocate it's business to this location, as the site is not available.

PEA65, Skelmanthorpe

- 4.16 This site is a densely developed, relatively modern, industrial site accessed off Station Road to the north of Skelmanthorpe.

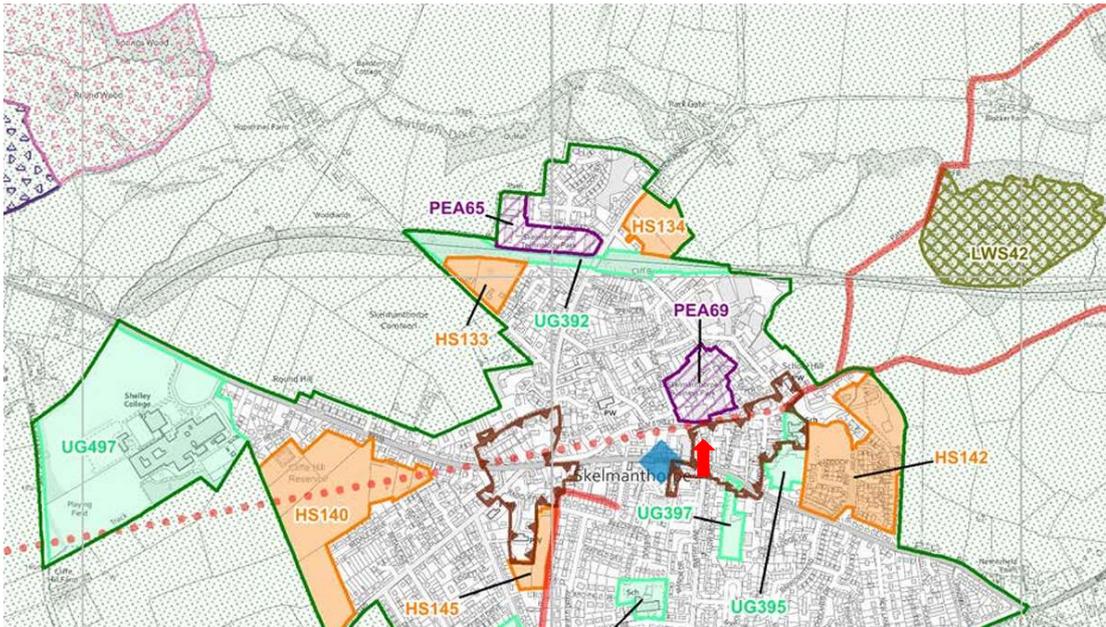
¹ [Reliance Precision to improve facilities at its Lepton-Based Site - Reliance Precision Limited](#)



- 4.17 It is the former colliery site and the current permission was secured in 2004, with conditions being discharged in 2014. Whilst it is now about 10 years old, it is clearly a well occupied and relatively modern provision in an area with little choice for local businesses.
- 4.18 Businesses occupying the site include Holtex, Firesolve, BioBax, Andrew Locke Plumbing, Absolute, Greensleeves and Bobby Dazzler Signs.
- 4.19 There are no vacant units, and no remaining land on which an application could be made for the application proposals. It is not feasible for the applicant to relocate its business to this location as the site is not available.

PEA69, Skelmanthorpe

- 4.20 This site is the Skelmanthorpe Business Park, located between Elm Street and Saville Road in the north east of the settlement.

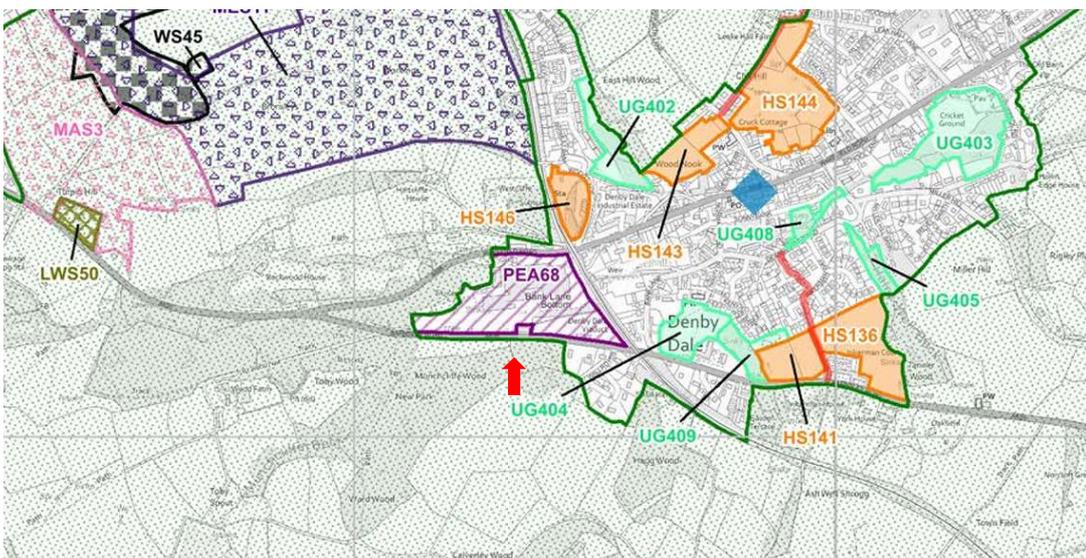


4.21 This is a densely developed area of mill buildings. There is a limited planning history with a number of buildings being replaced and extended over the last 10-15 years. It includes a number of alternative uses, including a soft play centre, yoga space and a gym. However, it also provides space for vehicle repair, a building supplies business, and an electronic components manufacturer.

4.22 There is no space to let or for sale in this location. There is also no remaining land on which an application could be made for the application proposals. It is not feasible for the applicant to relocate its business to this location as the site is not available.

PEA68, Denby Dale

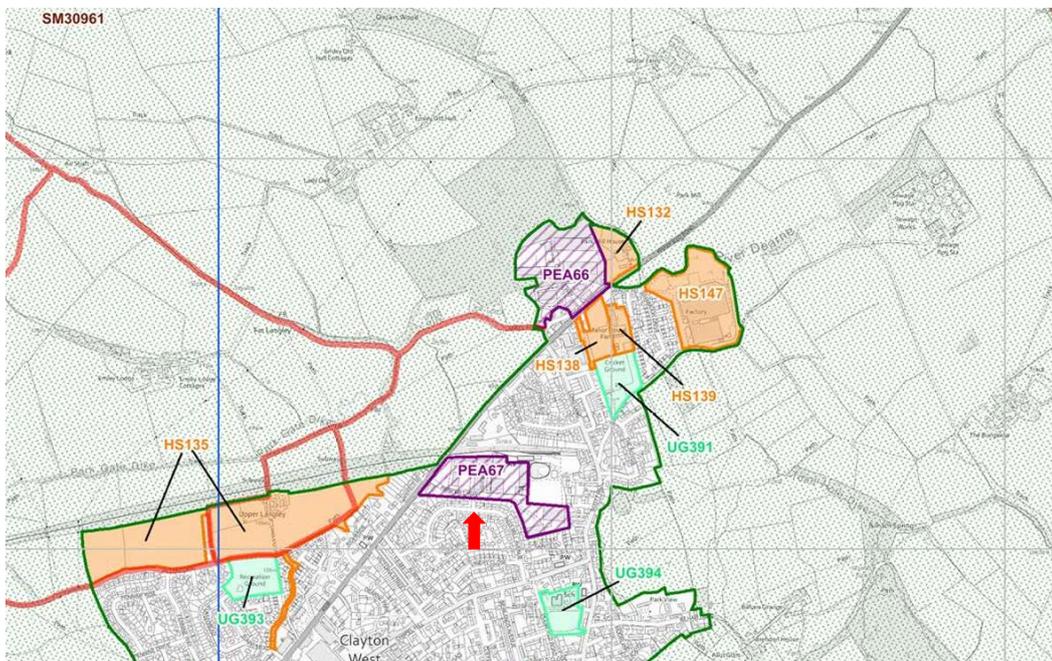
4.23 The site is located between Wakefield Road and Barnsley Road to the southwest of Denby Dale.



- 4.24 This is the manufacturing site of Z.Hinchliffe and Sons, who remain operational and have recently applied to extend their facility with a temporary building in order to ensure that they are maintaining enough storage space on site for their current manufacturing levels².
- 4.25 There is no additional land available within this area, and it is a constrained site with a single narrow access under the railway viaduct. The current owner is unlikely to share that limited access with an additional operation due to the constraints it would place on their ability to move goods in and out of their site. Equally, there is no space left that could be utilised by the applicant.
- 4.26 It is not feasible for the applicant to relocate its business to this location as the site is not available.

PEA67, Clayton West

- 4.27 This site is a relatively modern industrial site, located between the A636 (Wakefield Road) and Scott Hill in Clayton West.

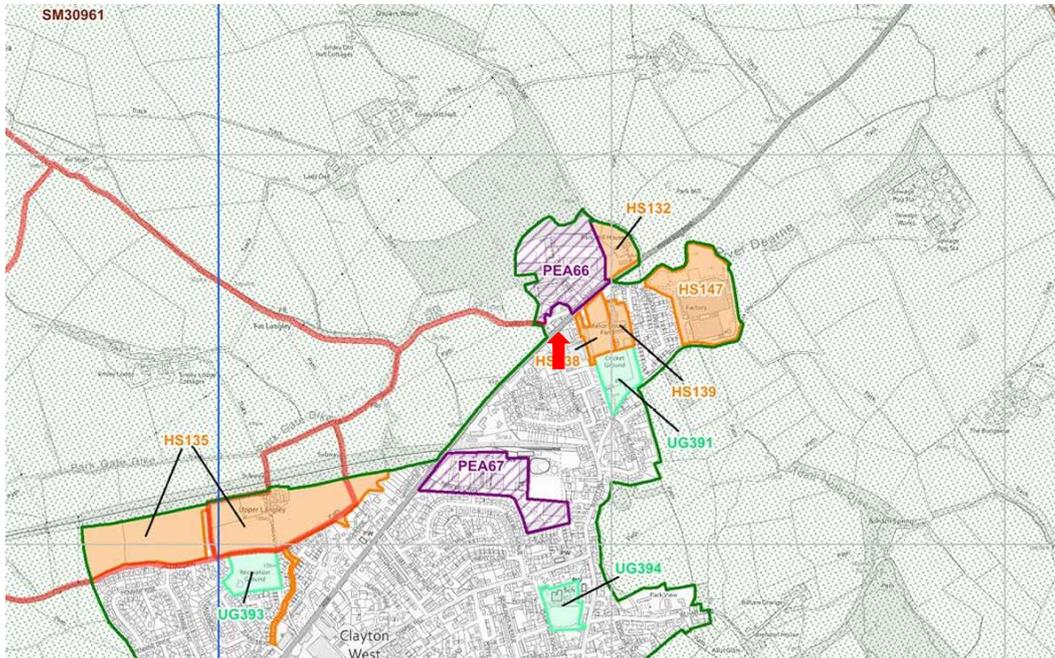


- 4.28 A search has been undertaken on commercial property databases and there are no vacant units. There is also no remaining land on which an application could be made for the application proposals.
- 4.29 It is not feasible for the applicant to relocate its business to this location as the site is not available.

² 2023/92506 Erection of storage building (class B8) including engineering works to level site base

PEA66, Clayton West

- 4.30 This site is a relatively modern industrial site, located to the north of the A636 (Wakefield Road).



- 4.31 A search has been undertaken on commercial property databases and there are no vacant units, and no remaining land on which an application could be made for the application proposals.
- 4.32 It is not feasible for the applicant to relocate its business to this location as the site is not available.

Existing Industrial Sites and Vacant Buildings: Conclusions

- 4.33 The applicant has reviewed all of the allocated sites within reasonable distance of their existing workforce. There are no sites or buildings for sale or let, which are capable of meeting their needs.
- 4.34 It is concluded that there is no existing industrial site, or vacant building, which could result in the development being accommodated on existing industrial land in reasonable proximity of the applicant's main operation.
- 4.35 The applicant has also been in long standing discussions with the Council's Inward Investment Team. That Team has confirmed that there are no sites available which are within the Council's control, and which may meet the applicant's requirements.

Industrial Sites Outside the Applicant's Search Area

- 4.36 Through discussions with the Council's Inward Investment Team, the applicant has also reviewed a number of sites and buildings which are outside their preferred area of search.

These do not meet the applicant's requirements, but nonetheless have been considered as they remain options that are available to meet this need within Kirklees.

4.37 The sites considered include:

a) Local Plan Employment Allocation ES7: Interchange 26

4.38 This site is located to the south of Bradford, accessed via the Chain Bar Junction (J26) on the M62. The developer recently went into receivership, but it is understood that the receivers are progressing the development in the absence of that developer.

4.39 The applicant has rejected this option due to the uncertainty around time scales for availability and also the lack of freehold options that are available for them to provide a new facility for their business.

b) Local Plan Mixed Use Allocation MXS7: Chidswell

4.40 This site is located to the north east of the District, between Dewsbury and Tingley, close to J28 of the M62.

4.41 This is a longstanding proposal, which has had a planning application being considered since 2020. It includes a wider mix of development, and the site owners intend to bring in separate developers to deliver the site in phases.

4.42 The mixed-use allowance does include employment land. However, the timescales for delivery are currently uncertain as planning permission has not been granted, despite an application having been actively considered for 5 years. The employment area is central within the site, and the majority of the development is housing related- which is likely to be brought forward first. It is understood that housebuilders are involved, but that no employment developer has been selected.

4.43 This site lacks certainty. The Chidswell site owner is struggling with a number of issues around access, and so the current applicant is unable to rely on delivery of this site within a reasonable time frame. The applicant has already been looking for alternative sites for a number of years and the requirement for proper storage facilities is now urgent. This is why they have reluctantly accepted the need to redevelop one of their existing sites- this will result in a multi-site solution to their needs, when the ideal would be a single holistic re-provision for their business.

4.44 The applicant has rejected this option due to the uncertainty around time scales for availability.

c) Local Plan Mixed Use Allocation MXS3: Lindley Moor

4.45 This site is located in the far north west of the District, at Ainley Top, close to J24 of the M62.

4.46 This site recently secured planning permission for a mixed industrial development. The applicant was the landowner, who is understood to have sold to an operator, who will utilise most of the site. It is also understood that the largest remaining unit will be 50,000 sqft (4,645sqm) and only available on a leasehold basis.

- 4.47 The site has a number of physical constraints, including sloping land and power lines both above and underground.
- 4.48 The applicant has rejected this option. The largest unit available would not meet the requirements of a wider relocation of the business, as it is too small and would not offer the certainty of a freehold ownership. Whilst it may accommodate a small satellite storage unit, this site is some 16 miles / 40 minute drive at non-peak times from the main manufacturing base. This is too far to offer a satellite operation as it would add considerably to business costs and carbon / other emissions to manage consolidated vehicle loads.

Industrial Sites Outside the Applicant's Search Area: Conclusions

- 4.49 The applicant has considered several undeveloped employment allocations in the wider Council area. None of these meets the applicant's locational brief as they are located in the north of the District, at some considerable distance and travel time from the applicant's main base in Clayton West.
- 4.50 This presents difficulties in terms of local load consolidation, travel times and emissions. It also presents difficulties in terms of staff retention- which is critical for a business which requires skilled manufacturing employees, all of whom are currently located in the south east of the District. Such an option may adversely affect the sustainability of this manufacturing business which relies on retaining existing skilled employees.
- 4.51 Whilst there are several sites available, none of these present an ideal solution for the applicant. The main concern is that most of the sites lack certainty on deliverable timescales.
- 4.52 The applicant has been looking for a site for a number of years, including before the adoption of the current Local Plan (2019). None of these sites offer any certainty, and are not in a suitable location to meet their needs. Therefore, they have also been rejected by the applicant.

Potential Green Belt Sites

- 4.53 Guided by the Council's Inward Investment Team, the applicant has also considered a number of current Green Belt sites. These were all considered for release during the previous Local Plan process, and are considered to have a better chance of securing planning permission when compared to other "random" Green Belt locations.
- 4.54 However, each of these has constraints – the most notable of which is the Green Belt designation, which is highly likely to result in a refusal of planning permission due to the harm that would arise to the openness of the Green Belt. Whilst there may be sensible arguments that could counteract this issue, the certainty of deliverability within a reasonable timeframe is a primary concern for the applicant - given the search process and timescales to date.
- 4.55 However, for completeness, the sites considered were:

- i. **Land South West of Grange Moor**

- 4.56 Some of the concerns that resulted in this previously proposed employment allocation being rejected could be addressed by reappraising the boundary utilised. A stronger Green Belt boundary could be defined, and the area in question had a relatively weak performance of Green Belt functions- based on the Council’s boundary review.
- 4.57 It is also marked out for playing pitches, which suggests that there might be an issue with securing agreement from Sport England that this site is surplus to requirements.
- 4.58 However, this option currently lacks certainty around deliverability, and whilst it is possible that a “very special circumstances” case could be made to release this land, it offers a much greater planning risk- both in terms of timescales and certainty of outcome.

ii. Land West of Wakefield Road, Clayton West

- 4.59 This option was originally proposed as a housing release, although was rejected due to it’s poor relationship with the settlement, and the fact that Wakefield Road already presents a strong boundary in this location. However, it would be possible to redefine the settlement boundary in this area using strong boundary features.
- 4.60 This option had a stronger Green Belt performance in the Council's review of settlement boundaries, and therefore is less preferable than the Grange Moor option above in terms of Green Belt boundaries.
- 4.61 This option also lacks certainty around deliverability, and whilst it is possible that a “very special circumstances” case could be made to release this land, it offers a much greater planning risk- both in terms of timescales and certainty of outcome.

iii. Land North of Clayton West

- 4.62 This site was originally proposed for allocation by the Council in the last draft Local Plan. However, it was removed by the Inspector, primarily because of its impact upon the character of Clayton West.
- 4.63 It is considered that this is a strong site which ought to be revisited. However, from the applicant's perspective, it also lacks certainty around deliverability, and whilst it is possible that a “very special circumstances” case could be made to release this land, it offers a much greater planning risk- both in terms of timescales and certainty of outcome.

Potential Green Belt Sites: Conclusions

- 4.64 In consultation with the Council's Inward Investment Team, the applicant has considered a number of Green Belt sites. Most many of these have merit as potential releases from the Green Belt. It is also noted that recent decisions have suggested a willingness to approve development for named occupiers in Green Belt locations³. However, these options are

³ Eg application 2023/90668 for PCS Property Solutions at Grange Moor

naturally limited in terms of the certainty that can be offered to the applicant, as well as the achievable timeframes⁴

- 4.65 The applicant has a dire need to move forward with a solution, which can be achieved in a reasonable time frame, and where a result can be guaranteed. All of the potential Green Belt sites have been rejected, as they cannot offer the certainty required in order to meet the applicant's needs.

Conclusions

- 4.66 The applicant has considered a number of potential off-site solutions to meet their needs. This includes existing industrial sites, vacant buildings, land allocations outside their ideal search parameters, and even Green Belt sites.
- 4.67 The applicant is constantly in touch with both of the Council's Inward Investment Team as well as a number of Industrial Agents, to ensure that the search is up to date, and that no new opportunities are being missed.
- 4.68 This review concludes that there are no sites or buildings available which are capable of meeting at the applicant's specific requirements. Meeting these needs in an off-site location is not feasible or practical.

⁴ The application above took 19 months to resolve positively with submission in March 2023 and a decision in October 2024

5. BNG Considerations

- 5.1 One of the key issues raised by the Environment Agency in their objection, is that applications should result in improvements to biodiversity interests.
- 5.2 This application includes a full suite of biodiversity net gain information, and ecological assessment reports. The BNG assessment is the most instructive for the purposes of this statement. It concludes that the developer must provide:
- 0.61 habitat units of medium distinctiveness woodland- This allows for minor losses and the uplift required by the habitat present within the red line.
 - 0.05 watercourse units- this allows for the uplift required due to the presence of the habitat. There will be no detriment to the watercourse, but as this habitat is present, the uplift of 10% is required.
- 5.3 These enhancements will be provided through an off-site contribution. This meets the requirements of the system and ensures that the application will deliver suitable biodiversity gains.
- 5.4 Whilst this is now a systemised response to the issue, it is suggested that this enhancement of both woodland and watercourse environments will meet the national policy requirements (NPPF 187 and 193) outlined by the Environment Agency in their objection letter.
- 5.5 This project will deliver an enhancement in biodiversity, including for the water environment- even with no removal of the culverting.

6. Compliance with Policy Tests

6.1 The EA objection raises several policy related concerns which are relevant to the determination of this application. In summary these are:

- Compliance with NPPF content on biodiversity enhancement.
- Compliance with Local Plan policy LP27, which seeks the reopening of culverts where this is feasible.
- Compliance with Local Plan policy LP34, which seeks reinstatement of watercourses to their natural state where practical.
- Compliance with the objectives of the Humber River Basin Management Plan.

6.2 These are explored in more detail below.

NPPF 187 and 193

6.3 This part of the NPPF offers general guidance on the objectives of national policy for environmental enhancement, and sets some principles for decision making. The Environment Agency summary of this policy is considered to be a fair reflection of the approach, and is reproduced below for ease of reference:

...recognise that the planning system should conserve and enhance the environment by minimising impacts on and providing net gains for biodiversity. If significant harm resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated for, planning permission should be refused. Opportunities to incorporate biodiversity in and around developments should be encouraged.

6.4 This application will not result in significant harm.

6.5 It is recognised that not being able to deculvert is not an ideal outcome. However, it would maintain a neutral position, with the legal requirement to enhance biodiversity in more general terms, being met through BNG contributions as discussed in Section 5.

6.6 National policy only indicates that an application should be refused where loss or deterioration of irreplaceable habitats occurs (NPPF 193 c)) or where significant harm to biodiversity cannot be adequately mitigated or compensated for (NPPF 193 a).

6.7 Neither of those circumstances will occur with this proposal. There is no loss of irreplaceable habitat, and suitable compensation is provided for through the statutory BNG process. It is, therefore, concluded that NPPF187 and 193 have been satisfied.

Local Plan Policy LP27

6.8 The relevant section of Policy LP27 states that:

Proposals involving building over existing culverts or the culverting or canalisation of water courses will not be permitted unless it can be demonstrated to be in the interests of public

safety or to provide essential infrastructure and that there will be no detrimental effect on flood risk and biodiversity. Where feasible, development proposals should incorporate re opening of culverts, modification of canalised water courses and consideration of mitigation measures to achieve a more natural and maintainable state.

- 6.9 This policy is drafted to operate in two parts. The first part resists new culverting or canalisation of water courses, unless there is a public safety requirement or the proposal is to provide essential infrastructure. This application does not propose new culverting, so the first limb of the policy does not apply in this case. It does involve building over an existing culvert, but this is a replacement building and this part of the policy seems to be concerned with new development.
- 6.10 The second part of the policy says that, where feasible, the reopening of culverts should be incorporated- in order to achieve a more natural and maintainable condition for the watercourse. Unfortunately, it is not feasible to achieve that aim in this instance.
- 6.11 This report sets out the circumstances which justify that conclusion. These are based on the impact of deculverting on the ability of the applicant to meet their needs on this site (section 3); the lack of alternative locations for them to consider meeting their needs in Kirklees (section 4), and the lack of harm arising from maintaining a neutral position on the site- particularly given the surrounding lengths of culverted watercourse that would not be opened up (sections 5 and 7).
- 6.12 In this case, it is suggested that the requirements of policy LP27 have been met.

Local Plan Policy LP34

- 6.13 The relevant section of Policy LP34 states 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...*

Proposals are encouraged to:

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

- 6.14 Part 1 of this policy does not require enhancement of water courses through deculverting. It states that no deterioration is an acceptable outcome. It also notes that enhancement should only be required where practicable. This is discussed in respect of Policy LP27 and in Section 3 above, and the same conclusions are drawn.
- 6.15 In this case, it is not considered to be practicable to open up this short length of culvert. If this policy desire were enforced in this case, it is likely that the applicant would need to

move outside Kirklees, with considerable economic detriment- contrary to the economic plan for the District.

- 6.16 Part 4 of this policy simply encourages progress towards achieving a better status under the Water Framework Directive. The applicant recognises this goal but is not required to achieve an improvement by this policy. This policy simply “encourages” an improvement, so it is again acceptable to maintain a neutral position- This has been discussed in respect of Part 1 of Policy LP34, and also in respect of Policy LP27 above.
- 6.17 In this case, the applicant cannot be required to open up the culvert on the basis of this policy. It is suggested that the policy allows a neutral position and, therefore, the application proposals comply with this policy.

Humber River Basin Management Plan (RBMP)

- 6.18 The EA also note that they will “*assess compliance with the Humber River Basin Management Plan (RBMP). The RBMP states that the water environment should be protected and enhanced to prevent deterioration and promote the recovery of water bodies. We therefore seek the removal of existing culverts wherever possible*”.
- 6.19 As context:
- The 2009 RBMP⁵ notes that physical modification of water bodies presents one of a number of challenges impacting this broad geographical area.
 - The 2015 update⁶ recognises that physical modifications may need to be maintained and therefore achieving good ecological status may not be possible in those areas⁷.
 - The current Plan⁸ is extensive and notes that “all public bodies are under a duty to “have regard to” the River Basin Management plan⁹.
 - The relevant ministerial guidance¹⁰ requires that other environmental priorities, economic considerations and social issues are also taken into account when setting water management objectives.

- 6.20 The applicant considers that the Environment Agency summary of the general intention of the River Basin Management Plan is fair- and again, they note that the water environment should be protected or enhanced, which suggests that a neutral or positive outcome would be acceptable.
- 6.21 This proposal wouldn't result in any deterioration of the water body quality- it would maintain the current status quo. Whilst it is accepted that this is perhaps not ideal, from the sole perspective of achieving WFD objectives, it would nonetheless have suitable regard to

⁵ <https://assets.publishing.service.gov.uk/media/5a7ce326ed915d7c849add6e/gene0910bsqr-e-e.pdf>

⁶ [Humber RBD Part 1 river basin management plan.pdf](#)

⁷ Para 1.4 subheading “physical modifications”

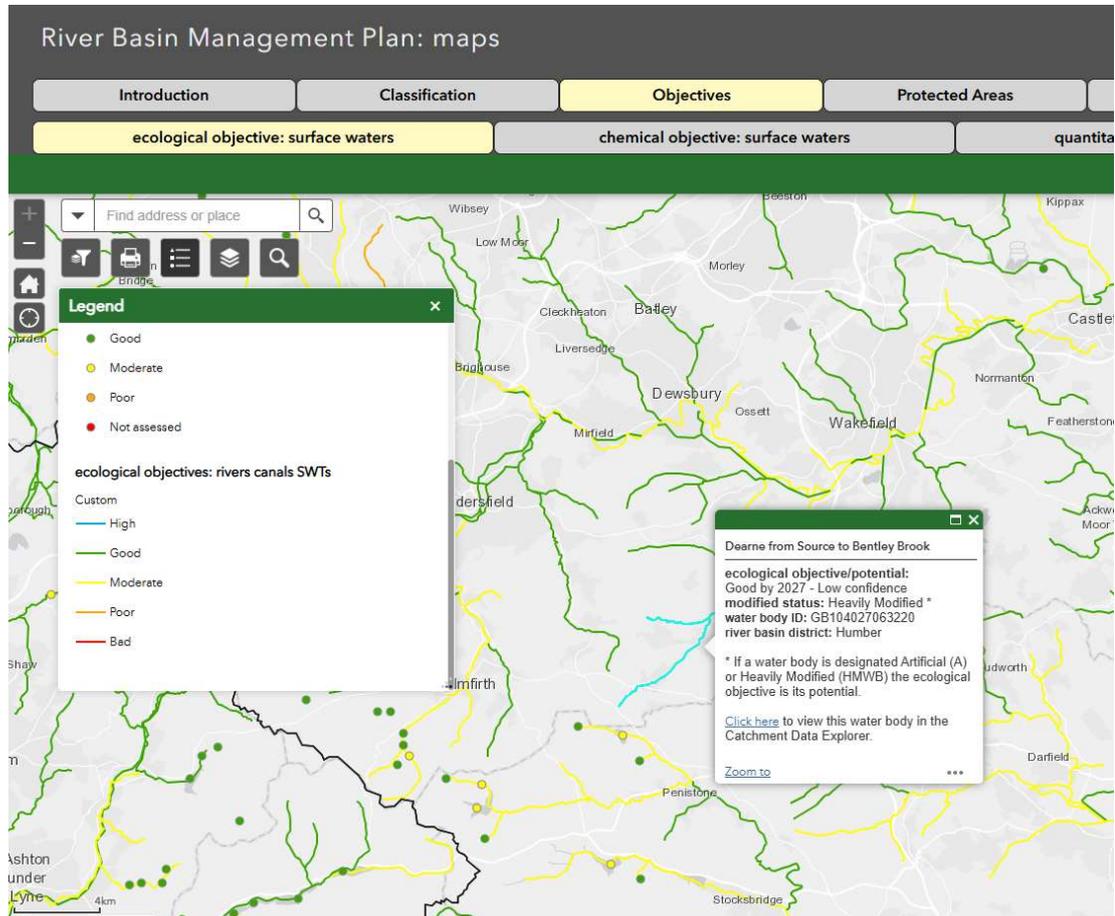
⁸ [Humber river basin district river management plan: updated 2022 - GOV.UK](#)

⁹ Ibid introduction, section 4

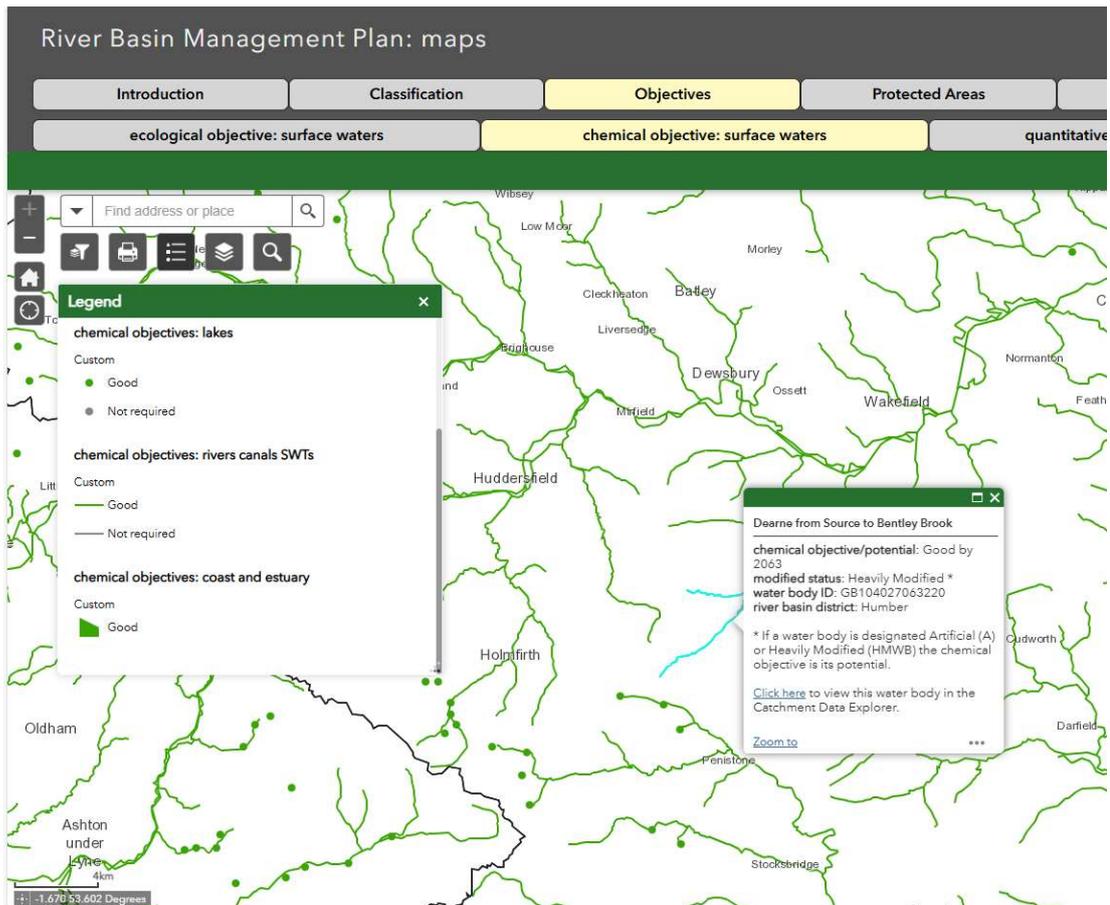
¹⁰ [River basin planning guidance](#) para 1.6

the approach advocated in the ministerial guidance- which is clear that some balancing needs to occur in public decision making on this topic.

- 6.22 The applicant has also examined the data presented for this section of River, which shows that the “Deerne from source to Bentley Brook” is heavily modified, but shows on the mapping as a “green” river, having a good ecological objective:



- 6.23 The same section is annotated on the maps as being green and thus having a good chemical objective:



- 6.24 Clearly the ecological and chemical data suggests that this section isn't particularly poor- albeit as a heavily modified stretch the future potential for improvement is probably quite limited.
- 6.25 Similarly, the EA acknowledge that removing culverts is something that should be achieved wherever possible. Whilst the applicant agrees with this general position, it is unfortunately not possible to deculvert this particular section of the River Dearne, without considerable harm to economic and social priorities. Unfortunately, deculverting is not a practical outcome in this case. On this basis, it is suggested that this proposal does accord with the overall approach of the RMBP.

7. Harm

- 7.1 The application proposes the maintenance of an existing culvert. Whilst there may be a strong policy desire to reverse historic culverting, all of the policy guidance suggests that this should only be required where it is both practical and feasible to be achieved. The majority of this report focuses on whether it is practical or feasible to reverse the historic culverting on this site.
- 7.2 It is also relevant to consider the harm that arises by not acting in this case; as well as the extent of benefit that would be gained should this section of culvert be reopened.
- 7.3 The best case scenario for deculverting within the application site would see a 30 metre section of the River Dearne opened up. The EA objection notes that there is approximately a 200 metre length of intermittently culverted water course in the upstream direction. It also notes that immediately downstream of the application site, the river is open.
- 7.4 The BNG work undertaken in support of the application suggests that enhancement of river units would be needed, and the applicant is likely to contribute to that occurring off site, given the difficulties of enhancing the narrow canalised section which is within (or partially within) the applicant's control.
- 7.5 The LLFA have confirmed that they accept the drainage strategy set out in the submitted flood risk assessment, subject to a number of detailed design conditions.
- 7.6 The main reasons for deculverting this section of the Dearne would be to secure a flooding benefit and an environmental / ecological enhancement. The technical work undertaken to date suggests that a neutral or positive position can be achieved in both of these technical areas. The harm arising to both water quality, flooding and biodiversity will therefore be neutral or positive as a result of this application proposal.
- 7.7 It is accepted that this outcome could be enhanced, if this short section of the river were opened up. However, it is suggested that such a short length would not make a material difference to wider water quality or environmental objectives- particularly given the physical constraints to truly widening and naturalising this section of the river.
- 7.8 However, the wider contributions to ecological enhancement present a net benefit, including an element directed solely towards watercourse enhancement. The harm arising is therefore negligible, and limited to a theoretical / opportunity cost.

8. Conclusions

8.1 This statement has examined the concerns raised by the Environment Agency in respect of a lack of deculverting of a short section of the River Dearne that lies within the application boundary. It has explored a number of practical and policy considerations, and concludes that it is not practical or feasible to deculvert this section, in this case.

8.2 In essence, the reasons for drawing this conclusion are:

- That there is no reasonable alternative available to the applicant to accommodate their development needs on the site, as well as meeting the objective of deculverting;
- That there are no alternative sites which are reasonably available to meet the applicant's needs elsewhere within Kirklees.
- That the applicant is part of a key industrial sector which is specifically encouraged by the Kirklees economic strategy- as a local strength, and representing a positive chance to improve the economic the circumstances of both the District and the people that live there.
- That it would undermine the operation of an important local employer, and potentially result in the loss of this employer to a neighbouring authority or more distant location.
- That there is no practical harm realised by not deculverting, so this is only an opportunity cost.
- There is no policy requirement to deculvert- this is not an absolute necessity, it is desired- but is only expected where it is practical and feasible to do so.

8.3 The benefit to be derived from deculverting a 30m stretch of the River Dearne is minimal, given the surrounding uses and extensive existing culverting, which is unlikely to change in the foreseeable future.

8.4 It is concluded that the applicant has considered and assessed all practical options for complete or partial de-culverting of the River Dearne. These options have been rejected for valid practical reasons. Therefore, it is suggested that the EA objection should be reviewed and lifted.

8.5 The natural outcome of maintaining this objection could be the refusal of this application. That will leave the applicant with a stark choice. They will need to either:

(a) stay in substandard accommodation – which is not an acceptable outcome

(b) shut down – which is not an acceptable outcome

(c) move to a different local authority area – which is not an acceptable outcome

- 8.6 The Council will now need to weigh up the local economic and social harm of losing an important local business, against the perceived harm of not deculverting 30m of river that has been culverted for well over a century, in an area where adjacent culverts are very unlikely to be removed.
- 8.7 It is suggested that the appropriate balance lies in favour of granting this permission.