
Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 06-Oct-2022

Subject: Planning Application 2021/94120 Change of use from haulage and distribution to a breakers yard Foxhill Ower Lane Birstall Batley WF17 9BW

APPLICANT

**Abdul Waheed,
Yorkshire Light
Commercials Ltd**

DATE VALID

22-Jan-2022

TARGET DATE

19-Mar-2022

EXTENSION EXPIRY DATE

11-Oct-2022

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Birstall and Birkenshaw

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report.

1.0 INTRODUCTION:

1.1 The application is brought to the Strategic Committee due to the scale of the application site over 0.5 Hectares. This is in accordance with the Scheme of Delegation set out in the Constitution.

2.0 SITE AND SURROUNDINGS:

2.1 The application site is an existing Haulage distribution depot which is made up of a central portal framed building and the siting of storage containers around the periphery which are stacked 3 no. containers high.

2.2 To the North East of the site are a shot blasting company and a company specialising in clinical/hazardous waste. To the North of the site is the M62 which is set down a steep embankment; to the East is the Oakwell industrial estate with open fields to the West leading to scattered residential dwellings.

2.3 Access to the site is via Owler Lane on the East side of Field Head Lane

2.4 The application site is allocated as Green Belt land as defined within the Kirklees Local Plan.

3.0 PROPOSAL:

3.1 Permission is sought for the change of use of the existing Haulage distribution yard to a Breakers Yard.

3.2 The exiting building and access will be retained. All shipping containers will be removed from the site and replaced with End-of-Life Vehicles (ELVs) which will be stored to the North and North West of the central building.

3.3 End of life vehicles would be delivered to site. The vehicle would then be inspected, and all fluids removed safely into an onsite storage tank. Once safe to work on, the vehicle would be broken down into parts. The spare parts would be stored on racks within the building and the remaining carcass of the vehicle, stored in the rear compound for potential larger body part spares.

3.4 The site will take delivery of end-of-life vehicles five times per week and anticipates visitors to the site two to five time per day.

3.5 The proposed use will employ 6 members of staff at the site.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

2009/91540 Erection of storage and HGV maintenance facilities
Conditional full permission

2007/90962 Renewal of previous permission 2002/90060 for erection of
workshop/store extension
Conditional full permission

2002/90060 Erection of workshop/store extension
Conditional full permission

99/90102 Erection of transport equipment store with offices
Refused – Appeal upheld

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

5.1 Through the course of the application, an amended red line boundary plan was submitted to show the application site up to an adopted highway. The amended red line boundary was readvertised, as necessary.

6.0 PLANNING POLICY:

6.1 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).

6.2 On 12/11/2019, 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

6.3 Kirklees Local Plan (2019):

- LP 1 – Achieving sustainable development
- LP 2 – Place shaping
- LP7 – Efficient and effective land and buildings
- LP 21 – Highway Safety and Access
- LP 22 – Parking Provision
- LP 24 – Design
- LP30 – Biodiversity and geodiversity
- LP43 – Waste Hierarchy

- LP44 – New Waste management facilities
- LP45 – Safeguarding waste management facilities
- LP 52 – Protection and improvement of environmental quality
- LP 53 - Contaminated and unstable land
- LP60 – The re-use and conversion of buildings

6.4 Supplementary Planning Guidance / Documents:

KC Highways Design Guide SPD

6.5 National Planning Guidance:

- Chapter 2 – Achieving sustainable development
- Chapter 6 – Building a strong competitive economy
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 13 – Protecting Green Belt Land
- Chapter 15 – Conserving and enhancing the natural environment

7.0 **PUBLIC/LOCAL RESPONSE:**

7.1 The application was advertised via neighbour notification letter. As a result of site publicity, two representations have been received. The comments can be summarised as follows:

Against (2)

- Impact of the noise on grazing horses
- Impact of increased traffic on Owler Lane
- Impact on residential amenity
- Decreased value of private property

8.0 **CONSULTATION RESPONSES:**

8.1 **Statutory:**

KC Highways DM: *No objection subject to condition*

Environment Agency: *No objection*

8.2 **Non-statutory:**

KC Environmental Services: *No objection subject to the following conditions:*

Contaminated Land
Hours of operation/use
Noise from Fixed Plant & Equipment

9.0 **MAIN ISSUES**

- Principle of development
- Urban design issues
- Residential amenity
- Sustainability and climate change

- Highway issues
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions. The starting point in assessing any planning application is therefore to ascertain whether or not a proposal accords with the relevant policies within the development plan, in this case, the Kirklees Local Plan. If a planning application does not accord with the development plan, then regard should be had as to whether there are other material considerations, including the NPPF, which indicate the planning permission should be granted.
- 10.2 Local Plan Policy 1 states that the Council will take a positive approach that reflects the presumptions in favour of sustainable development contained within the National Planning Policy Framework to secure development that improves the economic, social, and environmental conditions in the area. Proposals that accord with policies in the Kirklees Local Plan will be approved without delay unless material considerations indicate otherwise.
- 10.3 The application site is set within green belt land as designated within the Kirklees Local Plan. Paragraph 137 of the NPPF states that ‘the fundamental aim of the Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of the Green Belt are openness and permanence’.
- 10.4 Paragraph 147 of the NPPF states that ‘inappropriate development is by definition, harmful to the Green Belt’. When considering a planning application, the Local Planning Authority should give great weight to any harm to the Green Belt. Very Special circumstances will only exist where harm caused by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. For this application, exception (d) and (e) are relevant:
- d. The re-use of buildings provided that the buildings are of permanent and substantial construction*
- e. Material changes in the use of land*
- 10.5 For the purpose of paragraph 150e, it is considered that there is already an impact on the openness of the green belt caused by the existing use from the presence of two large buildings, stacked containers, the parking of HGVs, the movement of vehicles to and from the site as well as the noise and general disturbance associated with the use as a haulage and distribution yard. As such, an assessment is required as to whether the proposed use would have any further material impact on the openness of the green belt than the existing use.

- 10.6 The existing buildings would be re-used, and the site already has access to the highway which would be retained. The storage of external vehicles will be limited by the scale of the site and location and number of vehicles. Based on the location of the site, the proposed change of use is considered unlikely to further impact the noise environment. However, some equipment used can generate high levels of noise. The noise from these operations can be restricted by the use of conditions to limit noise to not exceed the existing background levels.
- 10.7 NPPF paragraph 150 also requires an assessment as to whether the development would conflict with the purposes of including land within the green belt, the relevant purpose in this case being to assist in safeguarding the countryside from encroachment. The site itself does not constitute countryside. It is on the edge of the built-up area and is closely associated with Oakwell industrial site to the South, neighbouring industrial activity to the East and the M62 motorway to the North, all of which generate a certain degree of noise and disturbance. However, there is open land to the West which should not be harmed by any materially significant additional noise and disturbance from the site.
- 10.8 Policy LP60 relates to the re-use and conversion of existing buildings. The policy states:
- Proposals for the reuse and conversion of buildings within the green belt will normally be acceptable where;*
- a. The building to be reused or converted is of permanent and substantial construction;*
 - b. The resultant scheme does not introduce incongruous domestic or urban characteristics into the landscape, including through the treatment of outside areas such as a means of access and car parking, curtilages and other enclosures and ancillary or curtilage buildings;*
 - c. The design and materials used, including boundary and surface treatments are of high quality and appropriate to the setting and the activity can be accommodated without the detriment to landscape quality, residential amenity and highway safety.*
- 10.9 The application site has access to the highway and is already enclosed. There are existing parked HGVs and stacked containers on the site so there is an existing degree of external visual intrusion.
- 10.10 The application does not propose any new built form on the site. The proposal will see the removal of a high number of existing containers from the site and the existing building retained. The proposed use will store vehicles to the rear of the site where the current shipping containers are placed. As the site is screened and has a clear boundary from the wider green belt setting there is considered to be no additional impact on the openness and character of the green belt.
- 10.11 Policy LP43 of the Local Plan states that the Council will encourage and support the minimisation of waste production and support the re-use and recovery of waste materials. In the submitted Design and Access Statement, the agent states that the operation will involve breaking up old vehicles and re-selling the components on as spare parts.

- 10.12 The development would enable greater re-use and recycling of waste materials in Kirklees, and therefore allow waste to be moved up the waste hierarchy in accordance with criterion a of Policy LP43.
- 10.13 Local Plan Policy LP44 relates to the creation of new waste management facilities. The creation of new waste management facilities is considered acceptable within sustainable locations appropriate to the proposed waste management use and its operational characteristics, where potentially adverse impacts on people, biodiversity and the environment can be avoided or adequately mitigated. In addition, proposals should have regard to a series of sequential priorities unless the use of an appropriate alternative site can be justified.
- 10.14 Although the applicant has not demonstrated that there are no available waste management sites in the district where this business could be located, Officers have reviewed the latest information available on existing waste allocations including (but not limited to) information from the Environment Agency, planning histories and aerial images.
- 10.15 Officers consider that there are no available sites of a similar size or larger than the application site that could accommodate the proposed use, as they are all currently occupied and/or operational. The potential impacts on people, biodiversity and the environment are assessed and considered to be acceptable as set out elsewhere in the report.
- 10.16 Whilst the application site is not within a safeguarded waste site, it is still adjacent to one, and as such, Policy LP45 must be considered. This policy states that proposals for development in the vicinity of an existing waste management facility will be required to demonstrate that the proposed development does not prevent, hinder, or unreasonably restrict the operation of the waste development.
- 10.17 Therefore, the applicant has to demonstrate that the proposal will not impact on the operation of the adjacent waste site at Foxhall Farm. Considering the information provided by the applicants alongside the information held by the Council in relation to land uses, the proposed use is considered to be compatible in relation to neighbouring uses.
- 10.18 For the reasons outlined above, the proposed development is considered to comply with guidance within Policies LP43, LP44, LP45 and LP60 of the Kirklees Local Plan.
- 10.19 Policy LP 24 is relevant in that it states that proposals should promote good design in accordance with a specific set of considerations. All the considerations are addressed within the assessment. Subject to these not being prejudiced, this aspect of the proposal would be considered acceptable in principle.

Urban design issues

- 10.20 Policy LP24 states that good design should be at the core of all proposals. Proposals should incorporate good design by ensuring that the form, scale, layout and details of all development respects and enhances the character of the townscape and landscape. This is supported by The National Planning

Policy Framework (NPPF) which sets out that, amongst other things, decisions should ensure that developments are sympathetic to local characterwhile not preventing or discouraging appropriate innovation or change (para.130 of the NPPF).

- 10.21 The application site is an existing haulage yard set within a wider industrial site. The proposed development does not propose new built form on the site. The existing building will be retained as existing to be used for the storage of vehicle parts
- 10.22 The external area of the site to the West will be used for the storage of end-of-life vehicles. The vehicles will replace a high number of shipping containers on the site which are tightly packed into the site to the East and West at a height of three containers. The removal of all containers from the site will improve the visual amenity of the site and the impact on the openness of the green belt setting.
- 10.23 The end-of-life vehicles will be stored to the West of the site only in 4 no. rows which is screened by mature vegetation. The clearing of the site would be considered to be an improvement to visual amenity.
- 10.24 In all, the proposal is considered acceptable from a visual amenity perspective, in accordance with Kirklees Local Plan policy PLP 24 and LP60.

Residential Amenity

- 10.25 A core planning principle set out in the NPPF is that development should result in a good standard of amenity for all existing and future occupiers of land and buildings. Policy LP24 of the Kirklees Local Plan states that proposals should promote good design by ensuring that they provide high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings.
- 10.26 A core planning principle set out in the NPPF is that development should result in a good standard of amenity for all existing and future occupiers of land and buildings. Policy LP 24 of the Kirklees Local Plan states that proposals should promote good design by ensuring that they provide high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings.
- 10.27 The application site neighbours the M62 to the north and existing industrial businesses to the east and south. The nearest noise sensitive residential properties are in excess of 250m away. To the immediate West are fields which are used for grazing horses. Based on the location, the proposed change of use is unlikely to further impact the noise environment, however some equipment used in the process of breaking vehicles can generate high levels of noise. Therefore, a condition is necessary to limit any noise so as not to exceed existing background levels. A condition will also be recommended for the restriction of the hours of operation of the site as follows:

No activities shall be carried out on the premises, including sales, deliveries to or dispatches from the premises, outside the hours of 7:00 and 19:00 Monday to Saturdays. No activities shall take place on Sundays and Bank Holidays.

10.28 In light of the above, it is considered that subject to conditions, there would not be an undue detrimental impact on the residential amenity of neighbouring properties, in accordance with the aims of policy LP24 of the Kirklees Local Plan.

Highway issues

10.29 The NPPF states that all new development should be assessed in terms of their impact on the existing transport infrastructure, impacts on the safety of users and the impact of encouraging sustainable transport modes. Kirklees Local Plan policy LP21 sets out the matters against which new development will be assessed in terms of highway safety.

10.30 The application site is accessed via Owler Lane which is a narrow road. It is considered that the proposed change of use will reduce the number of vehicular trips to the site from HGVs as there will be no articulated lorries required. However, it is expected that the number of trips from car deliveries and visitors may increase.

10.31 It is stated within the application that there will be 6 no. employees at the site. This is a significant reduction from the 14 employees which currently work at the site. There is considered to be adequate parking for the employees with a further 7 visitor parking spaces which is considered to be sufficient.

10.32 It is therefore considered that the proposed development is acceptable from a highway safety and efficiency perspective, in accordance with Policy LP21 of the Kirklees Local Plan and key principles of the Housebuilders Design Guide SPD.

Contaminated Land

10.33 The site has been identified as potentially contaminated land due to the former use as a transport depot. As the proposal will involve the repurposing of the site only with no proposed ground works apart from the removal of the diesel tank, a condition will be added for the reporting of unexpected land contamination only.

Coal Mining Legacy

10.34 The Application site is set within a high coal mining risk area, however, as the proposed development is for the change of use of the land only with no proposed operational development, a Coal Mining Assessment is not required. A note would be added to advise the applicant that should there be any operations required for the change of use then details would need to be submitted to the LPA for assessment.

Climate change

10.35 Chapter 12 of the KLP relates to climate change and states that "Effective spatial planning is an important part of a successful response to climate change as it can influence the delivery of appropriately sited green infrastructure and the emission of greenhouse gases. Planning can also help increase resilience to climate change impact through the location, mix and design of development." This is also reflected in the NPPF as a core land use planning principle. The NPPF emphasis that responding to climate change is central to economic,

social, and environmental dimensions of sustainable development. This application has been assessed taking into account the requirements summarised and provides opportunity for development that is considered to meet the dimensions of sustainable development.

Representations

10.36 The representations received have been carefully considered. Officers would respond to the matters raised as follows:

- Impact of noise on grazing horses
Response: The comment is acknowledged, however, given the context of the site adjacent to the M62 and existing use of the site the existing background noise is not considered to be significantly detrimental. Conditions will also restrict hours of operation and levels of noise from the site.
- Impact of increased traffic on Owler Lane
Response: The generation of traffic from the site will be a reduction of the existing level of the site as detailed above.
- Impact on residential amenity
Response: A condition will be attached to a permission to control the level of noise emitted from the site to ensure that the level of residential amenity currently enjoyed by the neighbouring residents is retained.
- Decreased value of private property
Response: The impact of the value of a private property as a result of a development is not considered to be a material planning consideration.

11.0 CONCLUSION

11.1 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.

11.2 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the proposed development is acceptable within the green belt location given the existing use of the site. The proposed use would not be considered to further impact the openness and character of the green belt setting, both spatially and with regards to noise disturbance. The Proposal is set within a sustainable location which will re-use existing buildings and brownfield site whilst not causing harm to nearby residential dwellings or highway safety. The proposal would, therefore, constitute sustainable development and is therefore recommended for approval.

12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)

1. Commencement of the development within 3 years
2. Development to be in accordance with the approved plans
3. Restriction on height and location of stored end of life vehicles
4. Restriction on noise from fixed plant and equipment
5. Hours of operation
6. Reporting of unexpected land contamination

Background Papers:

Website link to be inserted here

[Planning application details | Kirklees Council](#)

Certificate of Ownership –Certificate A signed and dated 27.10.2021