

**Item Number:** 12  
**Application No:** 19/00252/FUL  
**Parish:** Kirkbymoorside Town Council  
**Appn. Type:** Full Application  
**Applicant:** Mr Kevin Linfoot  
**Proposal:** Change of use of Highways Depot (sui generis) to a mixed use of B1, B2 and B8 Uses as listed on the Building Schedule on Drawing No. KWL/093/02/02 Rev.A Proposed Block Plan & Location Plan together with removal of 8 no. temporary buildings as listed, the re-positioning of 2 no. portable buildings and formation of additional parking spaces  
**Location:** North Yorkshire Highways Depot Manor Vale Lane Kirkbymoorside YO62 6EG  
**Registration Date:** 25 March 2019  
**8/13 Wk Expiry Date:** 20 May 2019  
**Overall Expiry Date:** 24 July 2019  
**Case Officer:** Jill Thompson **Ext:** 43327

#### CONSULTATIONS:

<b>Highways North Yorkshire</b> <b>Environmental Health Officer</b> <b>Yorkshire Water Land Use Planning</b> <b>Kirkbymoorside Town Council</b> <b>Public Rights Of Way</b> <b>Highways North Yorkshire</b>	Recommend refusal Recommend condition No comments required  Recommend informative I have looked at the documents submitted in support of the application and as a result have needed to consult with internal colleagues to give a full response from the Local Highway Authority.  No objections
<b>Flood Risk</b>	No objections
<b>Neighbour responses:</b>	Mr Paul Birchall, Liz And Paul Banks, Mr And Mrs Bancroft, Mr John Wright, Anthony Everett, Mr K Linfoot, Mr Robert Peirson, Mr Robert Peirson,

#### SITE:

The site is a former North Yorkshire County Council Highways Depot which is located towards the north of Kirkbymoorside in Manor Vale. It occupies a relatively narrow section of land, surrounded by steep cliffs to the west and east - the legacy of a former use as a quarry. Manor Vale Lane runs through the application site and becomes a single track road which provides vehicular access to Kirkbymoorside Golf Club. The site is 0.2 hectares in area.

A number of buildings and structures occupy the eastern part of the site, towards and beneath the cliff face. The northern part of the site is an area of hardstanding. Currently the site is not in use and has a derelict appearance.

A band hall is located to the west of the site and Manor Vale Lane. Residential development is situated immediately to the south of the site on both sides of Manor Vale Lane and on the top of the cliffs to the west (Manor Gardens) and east of the site (off Castlegate).

The southern part of the site is within the development limits of the town. Land to the north and east of the sites is designated as an Area of High Landscape Value (Fringe of the Moors). The Manor Vale Site of Importance for Nature Conservation (SINC) is located to the north of the site. An area to the north-

east of the site, adjacent to but outside of the site is designated as an Ancient Monument. (Neville Castle). Manor Vale Lane is a public right of way (footpath) as it passes the site.

## **PLANNING HISTORY:**

The site has a detailed planning application and appeal history. This is summarised below.

08/0019/MOUT. An outline application for residential development. Refused and dismissed on appeal.

13/00807/DNO. An application for the prior notification of the proposed demolition of the former County Council buildings. Approved.

14/00177/OUT. Erection of buildings for use class B1 and B2 together with use of land for the parking of vehicles associated with the B1 and B8 uses. Refused and a subsequent appeal was dismissed.

14/01262/GPCON. Prior notification of the change of use of office building to a two bedroomed dwelling. Refused and dismissed on appeal.

16/01658/OUT. Application for the erection of 6 no. three bedroom terraced dwellings. Refused.

17/01450/FUL. Application for the erection of 6 No. three bedroom terraced dwellings along with parking areas and shared amenity space. Refused and dismissed on appeal.

18/00713/COND. Application to discharge prior approval requirements in relation to 13/00807/DNO. Determined.

19/00922/FUL. Change of use of highways depot (sui generis) to a mixed use of B1 and B8 uses and removal of 8no portable containers and cabins. Application currently pending consideration.

North Yorkshire County Council has confirmed that when the site was in operation as a Highways Depot, no vehicle repairs were undertaken on site after the 1970's. The operation included the storage of vehicles, materials and winter grit. Fitting works were generally related to exchanging de-mountable truck bodies and snow ploughs. Out of hours working was generally limited to emergency call-outs and winter maintenance (gritting and snow clearing) with no overnight accommodation on site.

## **PROPOSAL:**

The application seeks to change the use of the former depot site from a sui generis use to a mix of B1, B2 and B8 uses. The new uses are proposed to be accommodated within existing buildings on the site as follows:

Proposed Use Class	No. of existing buildings	Total proposed floorspace (sqm)
B1 (Office)	4	208
B2 (General Industry)	4 *	273*
B8 (Storage)	3	127

\*includes the weighbridge kiosk and open area around it (6sqm)

The application drawings indicate that the proposed B2 use will be a garage/mechanic use. The application also proposes the removal of x3 portakabin offices, x1 portakabin store, x2 shipping containers and x2 office buildings that have been heavily vandalised and that are in a poor state of repair. In addition, two existing portakabin offices are proposed to be removed from their current positions in the north- eastern section of the site and re-sited on an existing raised platform in the north -western part of the site. These two re-sited portakabins are two of the four structures proposed for office use.

The application proposes car parking provision for ten cars with an additional five spaces for disabled

users. Five spaces are proposed for light goods vehicles together with five spaces for motorcycles and five spaces for cycle users.

The proposed vehicular access to the site reflects the current arrangement from Dale End/Manor Vale. The application is supported with a Design and Access Statement and information from the applicant which confirms that it is his intention to relocate his company office to the site from his current office base in Harrogate. There are few details of the nature of the proposed operation of the site. It is unclear whether the office space will accommodate additional business on the site. It is unclear whether the proposed B2 garage/mechanic use is intended to relate to one or more business operation and there is nothing in the application material which provides an indication of the nature of the uses proposed for the site within the B8 use class. In addition, the application is not supported by any detailed technical information which seeks to demonstrate that impacts of the proposed development can be mitigated.

The applicant has also submitted another application for the site (19/00922/FUL) which does not propose B2 use/s but which includes a greater proportion of B8 floorspace. Over the course of considering both applications and in view of a lack detailed supporting information, Officers have explored the potential use of conditions as a means of addressing the impacts associated with the development proposed. These have been discussed with the applicants' agent and are considered in the appraisal section of the report.

## **PLANNING POLICY:**

The Ryedale Plan:

- SP1 General location of development and settlement hierarchy
- SP6 Delivery and distribution of employment land and premises
- SP12 Heritage
- SP13 Landscapes
- SP14 Biodiversity
- SP17 Managing air quality, land and water resources
- SP20 Generic development management issues

National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG)

## **CONSULTATIONS:**

One letter of support for the application has been received from a business that is interested in renting three of the units for storage.

The Kirkbymoorside Town Brass Band has confirmed that it has no objections to the application on the basis that it has no concerns that the development might curtail or potentially threaten the bands continued existence.

Five letters of objection have been received from neighbouring residents/ members of the public. The issues raised are summarised as follows:

- Object to this plan for a small industrial site
- Site has been an eyesore for the past 5/6 years and the owner should be forced to clear it up rather than make it worse
- We have to look at the site
- The garage use will create extra noise and smell
- Provision of a weighbridge is ridiculous as there is no room for large vehicles to turn around
- A lorry turning space is necessary
- The removal of asbestos is necessary to update the buildings
- Any parking restrictions on the access route would make existing homes unsustainable and would prevent the charging of electric vehicles and wheelchairs

- Any road signs at Dale End would be close to Listed Buildings
- The site is at risk of flooding
- The site is in flood zone 3 not flood zone 1
- Seek reassurance that surface water drainage can be attenuated and discharged at a satisfactory rate
- Seek reassurance that the mains sewer can adequately deal with foul sewerage
- Drainage solutions should be included in the design
- Hours of opening need clarification as this would adversely affect the quality of life of local residents
- The increased volume of traffic on a road which already serves a very busy golf course would cause problems for walkers
- No objection to the principle but concern about lack of details
- There is a cave of acknowledged importance in the locality
- Tree replanting should be conditioned
- There is a badger sett close/ on the site
- One objector has stated that if concerns are addressed, development which would make the old depot site useful and less of an eyesore would be welcomed.

## **APPRAISAL:**

### Principle of the Development

Policy SP1 (General location of development and settlement hierarchy) of the Local Plan Strategy looks to promote in principle, the development of brownfield sites at the Market Towns. The application proposes the reuse of buildings that are currently vacant, together with the removal of vacant and derelict buildings, including temporary buildings. In this respect, the proposal does amount to the development of a brownfield site.

Policy SP6 (Delivery and distribution of employment land and premises) also supports the conversion of existing buildings for employment purposes and confirms that proposals for uses on unallocated sites will be supported in principle in locations such as Kirkbymoorside. This support in principle is subject to sites being appropriate in scale to their surroundings having regard to their visual impact; suitable highway /access arrangements can be achieved commensurate with the nature of the uses proposed and that a proposal is satisfactory in terms of other policies in the plan. It is considered the proposed development accords with Policy SP6 in principle. The extent to which the proposed scheme is acceptable in terms of the wider criteria in the policy is considered as part of the wider appraisal of the application, outlined below.

### Economic Issues

Information on the completed planning application form indicates that the proposed development will employ 20 full time and 10 part time staff. It is not clear how these figures have been derived, particularly given that the application provides limited information on the number of businesses that would operate from the site. The applicant has confirmed that in relocating his office to the site he will look to employ an additional two members of staff to work alongside himself and his assistant.

The proposed floorspace for all of the proposed uses is very modest and in this respect the projected employment figures (25 fte) could be considered to be optimistic. It is also unclear as to whether these would represent net additional new jobs in the local economy. Notwithstanding this, it is not unreasonable to assume that the re-use of buildings on the site for the uses proposed will result in some job creation. In addition, the scheme will provide additional, albeit limited business space at the Town which will be attractive to some new or existing businesses. The proposed additional business space and potential job creation are considered to weigh in favour of the scheme.

### Access and Highway Safety

Manor Vale Lane provides the main access to the site. The lane is limited in width and without footways for most of its length. Following initial consultation, the Highways Authority expressed concerns that

proposal would result in a situation where the type, size and level of vehicular activity would be difficult to predict and control. It notes that this is in comparison with the former use of the site where the Highway Authority were able to manage its operation to ensure that its highway safety objectives were not compromised by activity at the site. The Highway Authority considered that Manor Vale Lane would not be suitable to satisfactorily accommodate this type of traffic without detriment to vulnerable road users accessing other properties on the lane and the recreational network that leads off it. The Authority also raised concerns that the junction of Manor Vale Lane and Dale End has limited width and exit radius which is likely to result in larger vehicles using the whole of the carriageway in order to carry out a manoeuvre, to the detriment of the free flow of traffic and highway safety. On the basis of the above and in an initial response to the application, the Highway Authority recommended that the application be refused for the following reason:

*"The public highway leading to the site is by reason of poor junction alignment, insufficient width and lack of footways considered unsuitable for the increase in heavy traffic which would be likely to be generated by this proposal, without serious damage to the carriageway and verges of the highway and loss in amenity value."*

The concerns raised by the Highway Authority reflect, to an extent, the concerns and deliberations of the planning inspector who considered an appeal against the refusal of an application for B1 and B8 uses on the site in 2015. Whilst there are key differences between that application and this one, there are some similarities in that there were few details of the nature of the operation as part of the previous proposal. Against that context, the Inspector could not be assured that the proposal would not result in significantly more and/or larger vehicles using the road than the former Highways Depot use. On that basis, the Inspector concluded that there was significant potential for the scheme to result in conditions prejudicial to road safety. The Inspector considered that it could be feasible to restrict the size of vehicles parking on the site but that this would not prevent unsuitable large vehicles using the road to deliver or collect goods to/from the proposed B8 use. In the absence of information about the nature of the B8 use proposed, the Inspector could not be assured that there were any feasible improvement works to the road which would provide safe access to/from the site by large vehicles.

Following discussion, the applicant has confirmed that he will accept a condition which would restrict the size of the operational vehicle fleet of users on the site to 4 tonnes and below. It is considered that this would help to ensure that the majority of vehicular traffic to the site would be restricted to types and sizes of vehicles that could navigate the highway without damage to the carriageway or verges.

Such a condition could not control larger vehicles using the road to deliver or collect goods to and from the site. In view of the modest amount of floorspace proposed, it is considered that the number and type of larger vehicle deliveries will be likely to be less than the number and type of larger vehicle movements which were previously associated with the use of the site as a highway depot. In addition, the applicant has also indicated that he is prepared to have the B8 use on the site specified as a specific land use. It is understood that a local antique dealer is interested in securing storage space at the site. The B8 use of the site has the greatest potential for deliveries by large vehicles and it is considered that such a use is unlikely to rely on large vehicle deliveries from a third party. It is considered that a condition limiting the B8 use of the site to this specific land use would significantly reduce the need for deliveries to the site from large vehicles. A response to these suggested conditions is awaited from the Highway Authority and Members will be updated on this matter on the late pages or at the meeting.

A number of comments have been made that the proposal will result in an increase in traffic on Manor Vale road and affecting the public right of way. Clearly, the re-introduction of activity on the site will result in an increase in traffic from current levels. However, it is noted that the road is currently a route to the golf course and as such is subject to varying levels of traffic. In addition, it is considered that the scale of the uses proposed will not result in a level of traffic which would be significantly over and above the level of traffic which would be associated with the site's existing lawful use.

#### Impact on Neighbouring Land Uses

The Kirkbymoorside Town Band Hall is in the immediate proximity of the site. The band has confirmed that the development proposed would not curtail or threaten their continued existence and that as such

they have no concerns/ objections to the application.

The site is in close proximity to residential uses on Manor Vale Lane and in relative close proximity to residential uses to the rear of Castlegate and on Manor Gardens. In this respect, the potential impacts on the occupants of neighbouring properties primarily relates to noise and disturbance. The proposed B2 uses are of particular concern in this respect. The application is not supported by a noise assessment/ noise modelling (as advised by the Council's Environmental Health Officer) to provide evidence that noise generated from these uses can be mitigated. In the absence of such evidence, the Local Planning Authority cannot be satisfied that the development can be accommodated without and unacceptable impact on the amenities of local residents, in conflict with Policy SP20 of the Local Plan Strategy. This issue is considered to weigh significantly against the proposal.

There is the potential for some noise and disturbance associated with increased levels of activity at the site associated with the other proposed B1 and B8 use of the site. However, it is considered that this would not be materially greater than the level of activity associated with the lawful use of the site. Hours of use/operation are also matters which could be conditioned to mitigate impact on neighbours.

### Flood Risk

The site is located within Flood Zone 1 in terms of its risk of flooding from coastal and river flooding. DEFRA maps of risk of flooding from surface water highlight that Manor Vale Lane and parts of the site adjacent to the road are at risk of surface water flooding. There is also evidence that parts of the site have suffered from a surface water flood event in the past.

National Policy (paragraph 158 of the NPPF) states that:

*"The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding."*

*Paragraph 159 makes it clear that "if it is not possible for development to be located in zones with a lower risk of flooding taking account of wider sustainable development objectives) , the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the flood risk vulnerability classification set out in national planning guidance".*

Officers are not aware of alternative available sites at Kirkbymoorside in areas of lower flood risk which would be capable of accommodating the proposed development. On that basis it is considered that the proposal would meet the sequential test. The uses proposed are considered to be less vulnerable uses in flood risk terms and in this respect, there is no requirement for the exception test to be applied to the proposal.

The Local Lead Flood Authority has confirmed that the proposal is not likely to result in any measurable impact on flood risk both on and off site and that the change of use proposals does not increase the vulnerability classification of the site. The LLFA has confirmed that it has no objection to the application. In this respect, the application is considered to accord with Policy SP17 of the Local Plan Strategy.

### Drainage

Foul and surface water is proposed to be drained via the mains sewer. Yorkshire Water has confirmed that it has no comments to make on the application. The Local Lead Flood Authority has noted that whilst the number of car parking spaces is being increased, the application does not meet the threshold for requiring any pollution prevention measures.

### Impact on the setting of Heritage Assets

The Kirkbymoorside Conservation Area boundary lies immediately to the south of the application site and an ancient monument - the former Neville Castle is located to the north east of the site. Seven Grade 2 listed buildings are also present in the locality. These include High Hall and Low Hall to the east and No's 10,12,14,18 and 20 Dale End.

Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 requires the LPA to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Section 72 of the same legislation requires an LPA to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. Policy SP12 (Heritage) of the Local Plan Strategy seeks to protect the significance of heritage assets.

The application proposes the re-use of existing buildings on a brownfield site with an existing lawful use as a Highways Depot. In this respect, the proposed development in the setting of the conservation area is considered to have a neutral effect on the character or appearance of the conservation area which will be preserved. It is considered that the proposed development will also preserve the setting of the listed buildings in the locality and the ancient monument. In this respect, the development proposed accords with policy SP12 of the Local Plan Strategy.

### Ecology and Landscape

The application is not supported by an up to date ecological appraisal. The most up to date appraisal was prepared in 2016 to support an earlier application for the residential use of the site. That study noted that one building on the site was being used by nesting swallows and other birds. It is considered that an informative could be used to draw attention to legal obligations in relation to nesting birds and a condition can be used to ensure that a suitable open fronted structure is provided on the site to ensure suitable swallow nesting habitat is available on the site. Buildings on the site are of moderate, low and no bat roost potential. The proposal will not impact upon surrounding foraging, commuting and potential crevice roost habitat. The proposed change of use of the site will not impact upon the badger sett to the east of the site or the nearby Manor Vale SINC. It is considered that the development proposed will not have an unacceptable impact on biodiversity or protected species and accords with Policy SP 14 of the Local Plan Strategy.

The proposal involves the re-use of an existing developed site. It is not considered to have a detrimental impact on the Area of High Landscape Value and accords with Policy SP13 of the Local Plan Strategy.

### Conclusion

The proposal represents a re-use of this brownfield site for employment generating uses. The application is supported by some information to demonstrate that the impact of the proposal can be satisfactorily mitigated. However, no specific information has been provided to demonstrate that the noise associated with proposed B2 (Garage/ mechanic) use can be satisfactorily mitigated. In the absence of information which demonstrates that a satisfactory noise levels can be achieved, refusal is recommended.

**RECOMMENDATION: Refusal for the following reason (and subject to the final comments of NYCC Highways):**

- 1 The site is in close proximity to existing residential uses and noise from the proposed B2 use is likely to have an adverse impact on the amenity of the occupiers of residential properties in the locality. Insufficient information has been provided to demonstrate that the noise generated by the proposed B2 use can be satisfactorily mitigated in order to protect the residential amenity of the occupiers of nearby dwellings. The proposal is therefore contrary to Policy SP20 of the Local Plan Strategy.