

Item Number: 13
Application No: 19/00922/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 and B8 Uses and removal of 8no. portable containers and cabins as listed on the Building Schedule on Drawing No. KWL/093/03/02 Rev.B Proposed Block Plan & Location Plan
Location: North Yorkshire Highways Depot Manor Vale Lane Kirkbymoorside North Yorkshire YO62 6EG

Registration Date: 27 August 2019
8/13 Wk Expiry Date: 22 October 2019
Overall Expiry Date: 16 October 2019
Case Officer: Jill Thompson **Ext:** Ext 43327

CONSULTATIONS:

Public Rights Of Way	
Flood Risk	No comments
Environmental Health Officer	
Flood Risk	
Highways North Yorkshire	awaiting additional information
Kirkbymoorside Town Council	No comment
Public Rights Of Way	Previous response still stands
Yorkshire Water Land Use Planning	
Kirkbymoorside Town Council	Comments
Highways North Yorkshire	Thank you for your consultation on the above application. The highways case officer will be Stephen Boyne who is currently on leave but returns on 25 September 2019. Please let me know if you require any further response before this date.
 Neighbour responses:	 Liz And Paul Banks, Mr And Mrs Bancroft, Mr Paul Birchall, Mr Robert Peirson,

SITE:

Members are asked to refer to the earlier report for planning application 19/00252/FUL.

PLANNING HISTORY:

Members are asked to refer to the earlier report for planning application 19/00252/FUL.
 Proposal

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

Proposed Use Class sqm (sqm)	No. of existing buildings	Total proposed floorspace
B1(a) (Office)	1	50sqm
B8 (Storage)	9	558sqm*

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

The application proposes the removal of two buildings, four portakabins and two shipping containers. 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 nine buildings/ structures proposed for storage use.

The application proposes car parking provision for four cars. The Design and Access Statement refers to the car parking arrangements proposed under the other previous application (19/00252/FUL) and the plans propose a different combination of parking spaces, including what appears to be ten spaces for cars and /or light goods vehicles , five spaces for cycles and five spaces for motorcycles. The details of parking proposed for the site is unclear.

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 although this appears to be the same DAS which was used to support the other application for the site and retains a reference to B2 use. The proposed plans and application form make it clear that this application seeks permission for the change of use to B1 and B8 uses. It differs from the other/previous application in that it:

- Proposes a reduced amount of B1 Office Space
- Does not propose any B2 use on the site
- Increases the amount of B8 storage space proposed

The supporting 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.

The application is not supported by a significant amount of supporting information. In view of this, over the course of considering the application, 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:

When the application was originally consulted on, the description of development referred to B2 use in error. The description was amended and a re-consultation was undertaken which did not include a reference to B2 use.

Four letters from members of the public were received in response to the initial consultation. These are available to view in full online. A summary of the objections/ concerns and issues raised is as follows:

- A road turning place needs to be incorporated
- Sheds need asbestos removal
- Noise limits must be imposed on workshops
- Limit the amount and type of material stored
- Limits required on the size and quantity of delivery lorries
- The refuelling area will need decontaminating
- Residents seek reassurance that the development will not cause flooding from surface water or sewerage
- Comments made in relation to application 19/00252/FUL remain relevant to the consideration of this application
- If the problems/ issues could be addressed we would welcome a development which would make the old depot useful and less of an eyesore
- Congestion and noise associated with vehicles coming to the site for service and repairs and diesel fumes

One of the letters of objection has been submitted in response to the consultation for this application but includes reference to the previous (19/00252/FUL) application.

One letter of objection has been received from a local resident following the re-consultation on the amended description of the development proposed. The letter confirms :

- No objection in principle to the use of the site
- Concerns over lack of detail in the application including whether the garage use has been removed or not; the lack of detail regarding parking; conflict with users of Manor Vale Lane; concern over flooding and drainage; proposed hours of operation; protection of habitat and species; lack of detail as to how the proposal will result in an attractive viable link between the town and Manor Vale Woods as referred to in the Design and Access Statement.

Members should also note that some of the responses to this application have raised concerns relating to B2 use (the garage/mechanic workshop). Whilst there is some discrepancy between some of the information supporting the application, the description of development does not include reference to B2 uses and Members are reminded that B2 uses are not proposed as part of this application.

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 not require the employment of staff. However, it is understood from the information provided to support the other previous application (19/00252/FUL) that in relocating his office to the site, the applicant may look to employ an additional two members of staff to work alongside himself and his assistant.

It is unclear as to the extent to which the proposed storage use/space on the site may contribute to the economy. Clearly if this is used to support the creation of a new business or to support the expansion of an existing business then there will be some economic benefit associated with the development proposed. Kirkbymoorside has very limited supply of business space and it is considered that the proposed additional business space and potential job creation associated with this 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. The Highway Authority (LHA) has not made a formal response to this application to date. However, Members are aware that the LHA did express concerns in response to the previous application (19/00252/FUL). The LHA expressed concerns that 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 previous application (19/00252/FUL), 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 in response to application 19/00252/FUL 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. In considering that appeal, 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. The issues considered by the Inspector as part of that appeal are relevant to this application in that this application proposed development of the same uses.

Against this background and following discussion with the applicant's agent, 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.

The Highway Authority is aware that the proposed use of these conditions has been discussed with the applicant. The LHA was awaiting the outcome of this before confirming its response to this application. Unfortunately this has not been received prior to the agenda being despatched. 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. In response to planning application 19/00252/FUL, 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 that application. The band has not responded to this application. However, in view of its position on the previous application, it is considered that the development proposed in this application would not curtail or threaten the continued existence of the band.

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 associated with increased activity at the site associated with the proposed B1 and B8 use. However, it is considered that this would not be materially greater than the level of activity associated with the lawful use of the site. In addition, hours of use are matters which could be conditioned in order to mitigate operational impact of the uses proposed on neighbours.

Flood Risk

The site is located within Flood Zone 1 (Low risk) 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 it has no comments to make on the application. Members are reminded that in response to the previous (19/00252/FUL) application, the LLFA considered that that proposal would not be 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 confirmed that it had no objection to that application. It is considered that within the context of flood risk, there is little material difference in the development proposed as part of this application and that proposed as part of the previous application (19/00252/FUL). 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 not responded to this application. However, it did confirm that it had no comments to make on the previous application (19/00252/FUL). Both schemes propose drainage to the mains sewer to which Yorkshire Water has not objected to. In addition there is little material difference between this application and that proposed as part of the previous application (19/00252/FUL) in terms of drainage requirements. On that basis, the drainage proposals are considered to be acceptable. In addition, it is considered that it would be unreasonable to seek to secure alternative drainage arrangements in view of the fact that the site has an existing lawful use and the development proposed would not materially intensify the use of the site or increase floor space or hardstanding on the site.

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. It is considered that the re-use of the site will improve its current vacant and derelict appearance in the landscape/ townscape.

RECOMMENDATION: **To Follow once a response has been received from the Local Highway Authority.**