

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended)

**DELEGATED DECISION TO DETERMINE APPLICATIONS FOR
CONSENT, AGREEMENT OR APPROVAL REQUIRED BY CONDITION**

Reference No: 2020/44/92988/E

Site Address: Swan Inn, 962, Huddersfield Road, Mirfield, WF14 9HS

Description: Discharge conditions 9, 12, 13, 14, 18, 19, 22, 25, 27 on previous permission 2019/94003 for for erection of petrol filling station, kiosk/convenience store, commercial retail units and associated works

Recommending Officer: Callum Harrison

DECISION – DISCHARGE OF CONDITIONS – SPLIT DECISION

I hereby authorise a split decision for this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

Paul Dowd

AUTHORISED OFFICER

Date: 18-Feb-2021

Application: 2020/92988

Address: Swan Inn, 962, Huddersfield Road, Mirfield WF14 9HS

The application relates to planning permission 2019/94003 for erection of petrol filling station, kiosk/convenience store, commercial retail units and associated works. This application seeks to discharge conditions 9, 12, 13, 14, 18, 19, 22, 25 and 27.

Condition 9 – Intrusive site investigation

9. No development shall commence until intrusive site investigations have been carried out on site to establish the exact situation in respect of coal mining legacy features. The findings of the intrusive site investigations shall be submitted to the Local Planning Authority for consideration and approval in writing. The intrusive site investigations shall be carried out in accordance with authoritative UK guidance. **Reason:** To identify and remove unacceptable risks to human health and the environment with regard to historic coal mining legacy and in accordance with guidance contained within Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework. This is a pre-commencement condition so as to ensure that appropriate measures are incorporated into the development at the relevant stage.

The agent has submitted:

- Geo2 1022 2.1 Swan Development Gas Monitoring
- Geo2 1022.1 Swan, Investigation Report

The report confirms the undertaking of a rotary borehole investigation, the results of which encountered multiple coal seams. Section 5.6 of the report confirms that further investigations are required to establish any necessary remedial measures. **Therefore, the discharge of Condition 9 cannot be made at this present time.**

Condition 12 – Contaminated Land (Preliminary Risk Assessment)

12. Groundworks shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) has been submitted to and approved in writing by the Local Planning Authority. **Reason:** To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework. This is a pre-commencement condition to ensure that, should mitigation measures be required, they are implemented at the appropriate stage of the development.

The agent submitted:

- Phase I & II Environmental Assessment dated by Geo2 Remediation Limited July 2020 (ref: 20/1022.1.2).

Environmental Health assessed that there have been potentially contaminative uses on the site and on nearby land, which could impact the development. These include, but are not limited to, historic landfill, mines, refuse tip and the neighbouring garage. The Phase I aspect of the report

concluded that a Phase II investigation was required. **Therefore condition 12 can be discharged, however condition 13 must now be met.**

Condition 13 – Contaminated Land (Phase II Intrusive Site Investigations)

13. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition 12, groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the Local Planning Authority. **Reason:** To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework. This is a pre-commencement condition to ensure that, should mitigation measures be required, they are implemented at the appropriate stage of the development.

The agent submitted:

- Phase I & II Environmental Assessment dated by Geo2 Remediation Limited July 2020 (ref: 20/1022.1.2)
- Ground Gas Monitoring Assessment dated September 2020 by Geo2 Remediation Limited (ref: 20/1022.2.1)

These reports were deemed acceptable by Environmental Health. **It was determined that the information was sufficient to discharge condition 13 however condition 14 must now be met.** In accordance with Condition 14, a detailed remediation strategy should now be prepared and submitted for consultation. The report must indicate the specific remediation measures proposed that will leave the site safe for its intended end-use.

Condition 14 – Remediation Strategy

The agent has submitted Remediation Strategy 1022.3.1 to address this condition 14. However, a determination cannot be made against this condition yet, as Officers are awaiting a consultation response from Environmental Health.

Condition 18 – Highways

18. Prior to the development being brought into use, a detailed scheme as shown on plan number 190766-003-d by Jennings Design Ltd for the provision of a right turn lane from Huddersfield Road into the site and the relocation and upgrading of the existing traffic island with associated signing and white lining shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include construction specifications, drainage, kerbing, white lining, signing, surface finishes and street lighting together with an independent Safety Audit covering all aspects of the work. All of the agreed works shall be implemented before any part of the development is first brought into use **Reason:** In the interests of highway safety and to accord with Policy LP21 of the Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework.

The agent submitted:

- 1693-278-101 rev A Section 278 Construction
- 1693-278-102 rev A Section 278 Kerbing

- 1693-278-103 rev A Section 278 White Lining
- 1693-278-104 rev A Section 278 Typical Section
- 2020-06 Mirfield RSA2 – DR Rev 0 Road Safety Audit Stage 2

The agent submitted the detailed scheme to show these highways works. However, these works will need to be undertaken by this Council under the terms and conditions of a section 278 Agreement and a separate formal Technical Approval by the Council's Highways Design Team will be required. There are still minor outstanding matters that need to be agreed and formal 278 technical approval has not been granted. **Therefore condition 18 cannot be discharged at this time.**

Condition 19 - Parking

19. Prior to the development being brought into use, a scheme detailing measures to manage parking on both sides of Huddersfield Road between the eastern side of 891 Huddersfield Road and the western side 970 Huddersfield Road and all associated works, together with appropriate Safety Audits shall be submitted to and approved in writing by the Local Planning Authority. Unless otherwise agreed in writing, no part of the scheme shall be brought into use until the approved scheme has been implemented. **Reason:** In the interests of highway safety and to achieve a satisfactory layout to accord with Policy LP21 of the Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework.

The agent submitted:

- 1693-278-101 rev A Section 278 Construction
- 1693-278-102 rev A Section 278 Kerbing
- 1693-278-103 rev A Section 278 White Lining
- 1693-278-104 rev A Section 278 Typical Section
- 2020-06 Mirfield RSA2 – DR Rev 0 Road Safety Audit Stage 2

The section 278 team confirm that the Transport Regulation Order legal advert has been completed without objections.

The submitted details are considered acceptable for the purpose of condition 19. The condition will be formally discharged on the completion of the development.

Condition 22 – Noise

22. Before construction work commences a noise assessment report by a suitably competent person shall be submitted to and approved in writing by the Local Planning Authority. The report shall include:- a) an assessment of all of the noise emissions from the proposed development b) details of existing background and predicted future noise levels at the boundary of 970 Huddersfield Road, Mirfield WF14 9HS and 896 Huddersfield Road, Mirfield WF14 9HS c) a written scheme of how the occupants of the above mentioned noise sensitive premises will be protected from noise from the proposed development including details of all necessary noise attenuation The development shall not be brought into use until all works comprised within the measures specified in the approved report have been carried out in full and

such works shall thereafter be retained. **Reason:** To safeguard the amenities of neighbouring occupiers in accordance with Policy LP52 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

The agent submitted:

- Environmental Noise Survey dated 8 June 2020 authored by Paul Horsley Acoustics Limited Ref J2940

Environmental Health considered that the noise assessment report submitted is acceptable for the purpose of condition 22. The condition will be formally discharged on completion of the development in accordance with the approved scheme and retained thereafter.

Condition 25 - Drainage

25. Development shall not commence until a scheme detailing foul, surface water and land drainage, (including off site works, outfalls, balancing works, plans and longitudinal sections, hydraulic calculations, phasing of drainage provision, existing drainage to be maintained/diverted/abandoned, and percolation tests, where appropriate) has been submitted to and approved in writing by the Local Planning Authority. None of the dwellings shall be occupied until such approved drainage scheme has been provided on the site to serve the development or each agreed phasing of the development to which the dwellings relate and thereafter retained. **Reason:** To ensure the provision of adequate and sustainable systems of drainage in the interests of amenity, environmental wellbeing and to accord with Policy LP28 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

The agent submitted:

- 20229 Drainage Maintenance Schedule
- 20229 Drainage Maintenance Schedule rev A
- 20229 Source Control 5.0Is
- 20229-DR-C-0100-P3 Drainage Design
- 20229-DR-C-0100-P4 Drainage Design
- 20229-DR-C-0100-P5 Drainage Design Plan
- 20229-DR-C-0101-P1 Drainage Details
- 20229-DR-C-0102-P2 Private Levels
- 20229-DR-C-0103-P3 Manhole Schedule
- Bba_polystorm_r
- Micro Drainage 20229 – Source

Kirklees Lead Local Flood Authority is satisfied with the drainage details supplied. Whilst the use of crate storage is not recommended on major sites, the LLFA stated that, based on previous permissions, the use of crate storage is permitted. **Condition 25 can, therefore, be discharged.**

Condition 27 – Surface water

27. Development shall not commence until a scheme detailing the treatment of all surface water flows from parking areas and hardstandings through an oil interceptor, (or a full petrol oil interceptor) reedbed or alternative treatment system, has been submitted to and approved in writing by the Local Planning Authority. Use of the parking areas/hardstandings shall not commence until the works comprising the approved treatment scheme have been completed. Treatment shall take place prior to discharge from the treatment scheme. The treatment scheme shall be retained, maintained to ensure efficient working and used throughout its use. Roof water shall not pass through the interceptor. **Reason:** To ensure the provision of adequate and sustainable systems of drainage are employed, in the interests of amenity, environmental wellbeing and to accord with Policies LP24 and LP28 of the Kirklees Local Plan and Chapters 12 and 14 of the National Planning Policy Framework.

The agent submitted:

- 20229 Drainage Maintenance Schedule
- 20229 Drainage Maintenance Schedule rev A
- 20229 Source Control 5.0ls
- 20229-DR-C-0100-P3 Drainage Design
- 20229-DR-C-0100-P4 Drainage Design
- 20229-DR-C-0100-P5 Drainage Design Plan
- 20229-DR-C-0101-P1 Drainage Details
- 20229-DR-C-0102-P2 Private Levels
- 20229-DR-C-0103-P3 Manhole Schedule
- Bba_polystorm_r
- Micro Drainage 20229 – Source

The condition required a scheme detailing surface water run flows through an interceptor. Kirklees Lead Local Flood Authority states that a suitably designed interceptor has been indicated on drainage plans. **Condition 27 can, therefore, be discharged.**

Decision Text:

Condition 9 – Intrusive site investigation

The agent has submitted a report detailing the findings of the intrusive site investigations. The report confirms the undertaking of a rotary borehole investigation, the results of which encountered multiple coal seams. Section 5.6 of the report confirms that further investigations are required to establish any necessary remedial measures. **Therefore, the discharge of Condition 9 cannot be made at this present time.**

Condition 12 – Contaminated Land (Preliminary Risk Assessment)

The agent submitted a phase I report. Environmental Health assessed the Phase I aspect of the report. It is apparent that there have been potentially contaminative uses on the site and on nearby land which could impact the development. These include, but are not limited to, historic landfill, mines, refuse tip and the neighbouring garage. The Phase I aspect of the report

concluded that a Phase II investigation was required. **Therefore condition 12 can be discharged. However, condition 13 must now be met.**

Condition 13 – Contaminated Land (Phase II Intrusive Site Investigations)

The agent submitted a phase II report. The phase II study was deemed acceptable by Environmental Health. **It was determined that the information was sufficient to discharge condition 13. However, condition 14 must now be met.** In accordance with Condition 14, a detailed remediation strategy should now be prepared and submitted for consultation. The report must indicate the specific remediation measures proposed that will leave the site safe for its intended end-use.

Condition 14 – Remediation Strategy

The agent has submitted the required information for condition 14. However, a determination cannot be made against this condition yet, as Officers are awaiting a consultation response from Environmental Health. **Condition 14 is not discharged at this time.**

Condition 18 – Highways

The agent submitted the detailed scheme to show these highways works. However, these works will need to be undertaken by this Council under the terms and conditions of a section 278 Agreement and a separate formal Technical Approval by the Council's Highways Design Team will be required. There are still minor outstanding matters that need to be agreed and formal 278 technical approval has not been granted. **Therefore condition 18 cannot be discharged at this time.**

Condition 19 - Parking

The agent submitted a scheme detailed the measure to manage parking on the highways surrounding the application site. The section 278 team confirm that the Transport Regulation Order legal advert has been completed without objections.

The submitted details are considered acceptable for the purpose of condition 19. The condition will be formally discharged on the implementation of the noise attenuation methods.

Condition 22 – Noise

Environmental Health considered that the noise assessment report submitted is acceptable for the purpose of condition 22. The condition will be formally discharged on completion of the development in accordance with the approved scheme and retained thereafter.

Condition 25 - Drainage

The agent provided a detailed scheme to show the drainage of the site. Kirklees Lead Local Flood Authority are satisfied with the drainage details supplied. Whilst the use of crate storage is not recommended on major sites, the LLFA stated that based on previous permissions, the use of crate storage is permitted. **Condition 25 can, therefore, be discharged.**

Condition 27 – Surface water

The agent submitted a scheme detailing surface water run flows through an interceptor. Kirklees Lead Local Flood Authority state that a suitably designed interceptor has been indicated on drainage plans. **Condition 27 can, therefore, be discharged.**