

KIRKLEES METROPOLITAN COUNCIL INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 73

DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS TO CARRY OUT DEVELOPMENT WITHOUT COMPLIANCE WITH PLANNING CONDITIONS PREVIOUSLY ATTACHED

Reference No:	2022/70/92015/W
Site Address:	Devour, Woodlands Mill, Luke Lane, Thongsbridge, Holmfirth, HD9 7TB
Description:	Variation condition 15 (hours of use) on previous permission 2017/91888 for change of use, alterations and extensions to former mill buildings to form mixed use development comprising of food manufacturing, cookery school, cafe, shop, restaurant, cooking demonstration/tasting areas and management offices/suite. Outdoor seating areas, service yard, parking and associated landscaping works
Recommending Officer:	John Holmes

DECISION – Variation of Condition 15 - Approved

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

Kirsty Nicholls

AUTHORISED OFFICER

Date: 14-Oct-2024

THE SITE

The application site relates to an existing building which has been converted to accommodate a restaurant. The site also accommodates associated parking areas, waste storage areas and landscaping, external areas of seating are also upon the site which all facilitate the existing use as a restaurant.

THE DEVELOPMENT

Submitted under Section 73 of the Town and Country Planning Act 1990 (as amended), this application seeks permission for the variation of condition 15 (hours of use) on previous permission 2017/91888 for change of use, alterations and extensions to former mill buildings to form mixed use development comprising of food manufacturing, cookery school, cafe, shop, restaurant, cooking demonstration/tasting areas and management offices/suite. Outdoor seating areas, service yard, parking and associated landscaping works

Condition no.15 currently states the following:

The hereby approved development shall operate in accordance with the following hours of use:

Northern Building: 0900 to 2000 any day of the week

Southern Building: 1000 to 2230 any day of the week

Deliveries or dispatches to or from the site: 0730 to 2000 Monday to Friday, 0800 to 1800 Saturdays and no deliveries Sundays and Bank Holidays

This application seeks to amend condition no.15 to the following:

The hereby approved development shall operate in accordance with the following hours of use:

Northern Building: 0900 to 2300 any day of the week

Southern Building: 1000 to 2230 any day of the week

Deliveries or dispatches to or from the site: 0730 to 2000 Monday to Friday, 0800 to 1800 Saturdays and no deliveries Sundays and Bank Holidays

The above part of the condition both underlined and in italics highlights the proposed change.

As part of this application, the following has been submitted:

- Technical summary in relation to noise impact document, dated 10th June 2022.
- Addendum to noise statement dated 27th March 2020
- Planning Statement

- Restaurant Noise Management Plan dated 20th September 2024.

PLANNING HISTORY

The most relevant planning history for the site relates to the following applications:-

2017/91888 – Change of use, alterations and extensions to former mill buildings to form mixed use development comprising of food manufacturing, cookery school, cafe, shop, restaurant, cooking demonstration/tasting areas and management offices/suite. Outdoor seating areas, service yard, parking and associated landscaping works – **Approved** 21st December 2017

This application is the subject of this proposed variation of condition application.

2018/90205 – Discharge conditions 3, 4, 5, 6, 7, 8, 9, 11, 12, 19, 22 & 23 on previous permission 2017/91888 for change of use, alterations and extensions to former mill buildings to form mixed use development comprising of food manufacturing, cookery school, cafe, shop, restaurant, cooking demonstration/tasting areas and management offices/suite. Outdoor seating areas, service yard, parking and associated landscaping works

This application discharged conditions:

- 12 by letter dated 28th May 2019 and 12th July 2018,
- 11 by letter dated 25th June 2018
- 3, 7, 8, 9, 19, 22 and 23 by letter dated 14th March 2018

Whilst schemes were submitted, conditions 4, 5 and 6 were not discharged by virtue of this application.

2018/90876 – Variation conditions 2 (plans) and 15 (opening times) on previous permission 2017/91888 for change of use, alterations and extensions to former mill buildings to form mixed use development comprising of food manufacturing, cookery school, cafe, shop, restaurant, cooking demonstrations/tasting areas and management office/suite. Outdoor seating areas, service yard, parking and associated landscaping works – **Approved** 10th July 2018

2019/94030 – Discharge of conditions 11 (Ecological Design Strategy), 13 (LEMP), 14 (Lighting Design Strategy), 16 (Ventilation Systems), 17 (External Plant) & 25 (Validation Report) on previous permission 2018/90876 for variation conditions 2 (plans) and 15 (opening times) on previous permission 2017/91888 for change of use, alterations and extensions to former mill buildings to form mixed use development comprising of food manufacturing, cookery school, cafe, shop, restaurant, cooking demonstrations/tasting areas

and management office/suite. Outdoor seating areas, service yard, parking and associated landscaping works

This application discharged conditions 11 and 13 in a letter dated 6th February 2020.

2019/94096 – Erection of extension to former mill building – Approved 9th September 2020.

2020/90302 – Variation of conditions 2 (plans) and 15 (opening hours) on previous permission 2018/90876 for the variation of conditions 2 (plans) and 15 (opening hours) on previous permission 2017/91888 for change of use, alterations and extensions to former mill buildings to form mixed use development comprising of food manufacturing, cookery school, cafe, shop, restaurant, cooking demonstration/tasting areas and management offices/suite. Outdoor seating areas, service yard, parking and associated landscaping works – **Approved** subject to conditions on 9th September 2020.

An appeal to condition no.7 was made and subsequently dismissed. Condition no.7 required that the approved development shall operate in accordance with the following hours of use:

- *Northern Building: 0930 to 2230 any day of the week*
- *Southern Building: 0900 to 2000 any day of the week*
- *Deliveries or dispatches to or from the site: 0730 to 2000 Monday to Friday, 0800 to 1800 Saturdays*
- *No deliveries Sundays and Bank Holidays*

The reason given for the condition is so as not to detract from the amenities of nearby residents and to accord with Policies LP24 and LP52 of the Kirklees Local Plan and Policies in Chapter 15 of the National Planning Policy Framework.

Within the Inspectorates' decision to dismiss the appeal the Inspectorate sets out 'the current permitted extent of the operating hours of 2230 has, the Council state, been a consistent element of approvals at the appeal site influenced by concerns regarding later evening opening on the living conditions of occupiers of nearby residential properties. At its closest point, the Royds Mill building is less than 20 metres from the northern (appeal) building, and closer still to the southern building, the two being separated by just the width of Luke Lane. In this respect, I can understand the Council's desire to seek to control the hours of operation in the interests of the living conditions of occupiers of those residential properties sited at close quarters to the appeal site, and to do so is neither unreasonable nor unnecessary'

They go on to state 'the effect of the proposal to vary the disputed condition would extend the period within which vehicle and pedestrian movements associated with the appeal premises would occur. I am not persuaded that the appellant's various surveys fully and accurately demonstrate the full range of factors associated with the later operation of the premises which influence the

late evening noise environment around the appeal site. Thus, the (likely) effects of pedestrian movements, those occasions when customers may wait at the entrance for taxis, and the full range of vehicle movements and the effect that those related to the appeal site's operation would have, when compared with representative ambient levels are patchy in the submissions thus far'

The conclude that they are 'conscious that the Council's decision was against the recommendation of their officers, with no objections from consultees in relation to highways and public health matters. However, the Council is not duty bound to follow the advice of its professional officers and, having considered the evidence submitted, I have concluded that the proposal would be contrary to KLP policies LP24 and LP52.'

The appeal decision is dated 21st June 2021. This application for variation of condition essentially amends and updates the detail of the appeal as a result of the subject of the application relating to the northern building only, and also the submission of a further noise management plan.

This is a material consideration relevant to the determination of this case and is discussed in further depth within the assessment of this application.

2020/93985: Erection of terrace kitchen/bar building and canopy to existing Pergola's and related site works: Awaiting determination.

2024/92551: Discharge of details reserved by conditions 7 (ventilation), 8 (air conditioning) on previous permission 2019/94096 for erection of extension to former mill building: Awaiting determination.

REPRESENTATIONS

Publication of the application has been undertaken in accordance with the Council's Development Management Charter (2015).

The application has been publicised on the Council's website, and by neighbour notification letter. The expiry date of the publicity period was 27th July 2022.

[Note – The word 'letter' below should be taken to include hand-written letters, emails and online representations.]

Letters of Objection

One objection letter has been received raising the following summarised concerns:

- The developer should not have continued the development if the hours were not acceptable to them at the time of application.
- Likely multiple applications will be forthcoming

- There is already breaches of the noise conditions
- Complaint(s) about noise are not made as it is unlikely action is forthcoming by the Council
- Only one letter of support, likely from someone who works at the site.
- Noise study makes little sense in relation to traffic noise
- Hours are in place for this site already
- The description is misleading, the site is a restaurant and outdoor eatery only.
- Nearby residents have a right to a quiet life.

Letters of Support

133 letters of support have been received, raising the following summarised points:

- Restoration a positive impact
- The site attracts respectful custom.
- Following Covid such a development is a positive impact
- Fully support the proposal
- Popular local business and will enable further use
- Service during covid was of assistance to local people
- The proposal supports local business and employment in the area
- Usually quiet at closing times therefore unlikely to have a significant impact
- Current hours are restrictive
- The site is a beautiful restaurant
- Improves longevity to a business which is of benefit to Holmfirth
- Current restrictions restricts experience and enjoyment of the venue
- Transformed previously derelict site
- Sensible decision to extend the hours
- The site is not a particularly built up area, vehicles use the road in any event
- People generally try to minimise noise they make when leaving
- Considerable investment in the premises has been undertaken

- Current hours likely costs money to the business and therefore also costs jobs
- Asset to Holmfirth
- Car park well sited away from residents
- Similar premises nearby open late with little issues
- Current climate means we should support local businesses
- Users of the site unlikely to cause anti social behaviour issues
- Well managed facility
- Asset to the locality and encourages tourist offer of Holmfirth
- Less rushed requirement will improve the experience for customers

Letters of Comment

Three letters of general comment have been received, raising the following summarised points:

- Consider the premises a high class restaurant
- Houses would be beneficial and give greater flexibility
- Lived across from the site for 4 years and have no issue with the site.
- Credit deserved for the amount of work put into a run down site
- No noise / odour issues considered applicable.
- Not a built up area
- Cars use roadway anyway
- Responsible owner(s) operate the site.

CONSULTATIONS

The following consultations have been undertaken for this application with the summarised responses listed below.

KC Environmental Health: No objection

Within their response of 26th September 2024 they state the following:

In our comments dated 01 August 2022, we accepted the findings of the submitted supporting information but requested the submission of a revised Noise Mitigation Scheme. This has been submitted dated 20 September 2024 and covers typical measures to minimise noise and disturbance. The submitted info is accepted and we therefore have no objection to the

applicant's proposal to vary the opening hours from 0900hrs to 2000hrs to 0900hrs to 2330hrs any day of the week.

The response of the above consultee is discussed in greater length within the 'Assessment' section of this report.

ALLOCATION AND POLICIES

The site is within the Green Belt as allocated within the Kirklees Local Plan and falls Landscape Character Area no.4 (LCA4) within the Holme Valley Neighbourhood Plan Area. The site also falls within flood zone 2 and in an area with a known presence of bats.

The following allocation and policies are considered relevant to the consideration of this application:

LP24 Design

LP52 Protection and Improvement of Environmental Quality

Insofar as they are relevant to the consideration of this application the following Assessment makes reference to the applicable policy / legislation.

ASSESSMENT

This Section 73 application seeks minor material variations to the originally approved plans which have come about by a change in the design and layout of the site.

It is considered that the key determining issue in the consideration of this application is whether the impact upon the residential amenity of neighbouring occupiers would be acceptable.

The National Planning Policy Framework has been updated since the determination of the previous application and there has been the adoption of the Kirklees Local Plan by the Council. It is not considered the adoption of the Local Plan and the update of the NPPF has a significant impact upon the determining issues considered applicable in this case.

Amenity issues

Policy LP24 of the Kirklees Local Plan and policies within Chapter 12 of the National Planning Policy Framework seeks to ensure development has an acceptable impact upon the amenity of neighbouring occupiers.

Paragraph 191 of the NPPF, contained within Chapter 15, sets out that proposals should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life. This is echoed within Kirklees Local Plan Policy LP24 which states that: -

‘Proposals should provide a high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings and the creation of development-free buffer zones between housing and employment uses incorporating means of screening where necessary’.

Paragraph 191 of the NPPF, contained within Chapter 15, sets out that proposals should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development. Policy LP52 of the Kirklees Local Plan seeks to ensure that, amongst other things, the impact from noise for new development is acceptable.

Policy LP52 is considered to be of relevance and sets out that development which has the potential to increase pollution from noise must be accompanied by evidence to show that the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, so as to ensure it does not reduce the quality of life and well-being of people to an unacceptable level.

The application has been submitted with an accompanying noise assessment and noise management plan. The Council’s Environmental Health Team have reviewed these documents and in light of them they consider the proposed development to be acceptable and support the hours of use which are the subject of this application.

It is noted that the appeal of condition no.7 of permission 2020/90302 related to an appeal of an application which was in itself a variation of permission 2018/90876. Condition 7 permitted the following hours:

- *Northern Building: 0930 to 2230 any day of the week*
- *Southern Building: 0900 to 2000 any day of the week*
- *Deliveries or dispatches to or from the site: 0730 to 2000 Monday to Friday, 0800 to 1800 Saturdays*
- *No deliveries Sundays and Bank Holidays*

Condition 15 of permission 2017/91888 permits the following:

- *Northern Building: 0900 to 2000 any day of the week*
- *Southern Building: 1000 to 2230 any day of the week*
- *Deliveries or dispatches to or from the site: 0730 to 2000 Monday to Friday, 0800 to 1800 Saturdays and no deliveries Sundays and Bank Holidays*

The application being considered relates to application 2017/91888, although it is noted that consent 2020/90302 permitted the hours of use for the northern building (in terms of finishing time) being sought by this application.

Weight is afforded to the planning history, although this application relates to application 2017/91888, and that the majority of conditions of that consent were satisfied (and consider a lawful commencement of that consent has been made) is considered to be a significant factor in this case. In particular the fact the southern building is able to operate at the hours the subject of the 1000 to 2230.

Since the time of the inspectorate decision, there has elapsed a period of 3 years, with the site under operation for the duration of that time. It is not clear if this has been in breach of condition 15. Notwithstanding this point, the Council's Environmental Health Team have not raised objection to the proposed amendment to the hours permitted by 2017/91888 the subject of this application. This recommendation is made with the benefit of an additional 3 years of operation(s) from the site, and the insight of what (if any) complaints have been received in relation to the site.

The decision of the Inspectorate is noted, as is the relatively lengthy planning history. In addition, the number and content of supporting comments is also noted, as well as comment received in objection and general comment. Weighing up the relevant applicable factors in this case, taking account of the document(s) submitted as part of this application, it is considered that the impact of amending the hours of use to that as proposed would not have such a significant impact as a result of noise that refusal of permission could be justified on the basis of the resultant impact from noise that would occur in this case.

It is therefore considered the proposal is acceptable, having regard to the aforementioned policies, planning history, third party representations and submitted detail.

Review of conditions

In the instance of any grant of approval of a S73 application a new consent is issued by the LPA, as such all conditions upon the original consent are required to be reviewed and where necessary re applied or amended. This section sets out a review of all conditions upon consent 2017/91888.

Condition no.1

This condition requires the development to be begun within 3 years. The development has taken place at site and therefore this condition is not considered necessary in the event of any grant of permission.

Condition no.2

This condition relates to the plans list, it is recommended this remains as worded although is updated to refer to policies of the Kirklees Local Plan and Holme Valley Neighbourhood Development Plan. The plans table is also

recommended to be updated to refer to plans / documents submitted as part of application 2017/91888 as well as this application.

Condition no.3

This condition required external facing and roofing materials to be submitted to the LPA for written approval and was discharged by letter dated 14th March 2018 submitted as part of application 2018/90205. It is recommended any grant of permission includes this condition reworded to make reference to the aforementioned letter. It is recommended the reason for this condition is updated to refer to policies of the Kirklees Local Plan and Holme Valley Neighbourhood Development Plan.

Condition no.4

This condition required a scheme detailing arrangements and specification for layout, surfacing and drainage of the car park. A scheme of details was submitted and whilst there was no formal discharge of this condition by letter, given the passage of time since the submission of these details and fact the site is operational as well as the fact a scheme was submitted to the LPA, it is recommended this condition is omitted from any grant of permission in this case on the basis the inclusion of the condition is no longer necessary.

Conditions 5 and 6.

These conditions required a scheme of works in relation protection of the public right of way during the construction phase of the development and also a scheme of details of all retaining, levelling, surfacing and improvement works in relation to the right of way. A scheme of details was submitted and whilst there was no formal discharge of these conditions by letter, given the passage of time since the submission of these details and fact the site is operational as well as the fact a scheme was submitted to the LPA, it is recommended this condition is omitted from any grant of permission in this case on the basis the inclusion of the condition is no longer necessary.

Condition no.7

This condition required cycle storage details to be submitted to the LPA for written approval and was discharged by letter dated 14th March 2018 submitted as part of application 2018/90205. It is recommended any grant of permission includes this condition reworded to make reference to the aforementioned letter. It is recommended the reason for this condition is updated to refer to policies of the Kirklees Local Plan and Holme Valley Neighbourhood Development Plan..

Condition no.8

This condition required a schedule of the means of access to the site for construction traffic shall be submitted to and approved in writing by the Local

Planning Authority. As the construction phase is completed, this condition is not considered necessary in the event of any grant of permission.

Condition no.9

This condition required an Arboricultural Method Statement, in accordance with British BS 5837, to be submitted and approved in writing by the Local Planning Authority before development commences. The method statement was required to include details on how the construction work will be undertaken with minimal damage to the adjacent protected trees and their roots. As the construction phase is completed, this condition is not considered necessary in the event of any grant of permission.

Condition no.10

This condition required No removal of trees, shrubs or brambles shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. As the construction phase is completed, this condition is not considered necessary in the event of any grant of permission.

Condition no.11

This condition required an ecological design strategy to be submitted to the LPA for written approval and was discharged by letter dated 25th June 2018 submitted as part of application 2018/90205. It is recommended any grant of permission includes this condition reworded to make reference to the aforementioned letter. It is recommended the reason for this condition is updated to refer to policies of the Kirklees Local Plan and Holme Valley Neighbourhood Development Plan.

Condition no.12

This condition required an invasive non-native species protocol shall be submitted to and approved by the Local Planning Authority, detailing the containment, control and removal of Japanese Knotweed and Himalayan Balsam on site and was discharged by letters dated 28th May 2019 and 12th July 2018 submitted as part of application 2018/90205. It is recommended any grant of permission includes this condition reworded to make reference to the aforementioned letter. It is recommended the reason for this condition is updated to refer to policies of the Kirklees Local Plan and Holme Valley Neighbourhood Development Plan.

Condition no.13

This condition required a scheme detailing landscape ecological plan to be submitted to, and approved in writing by, the LPA. Given the passage of time

since the grant of consent and fact the site is operational, as well as the fact there is an ongoing requirement for the retention of the scheme approved by condition 11 within its wording (and fact condition 11 would be worded to require this too) it is recommended this condition is omitted from any grant of permission in this case on the basis the inclusion of the condition is no longer necessary.

Condition no.14

This condition required a a "lighting design strategy for biodiversity" to be submitted to, and approved in writing by, the LPA. Given the passage of time since the grant of consent and fact the site is operational, it is recommended this condition is omitted from any grant of permission in this case on the basis the inclusion of the condition is no longer necessary.

Condition no.15

This is recommended to be amended to that which is the subject of this application. As discussed in the 'Assessment' section of this report.

Condition no.16

This condition required neither phase (1 or 2) of the development hereby approved to be brought into use until details of the installation and/or erection of any extract ventilation systems required for either phase (1 or 2), including details of the methods of treatments of emissions and filters to remove odours and control noise emissions and specific design details of any external flue have been submitted and approved in writing by the Local Planning Authority and the works specified in the approved scheme have been installed. Given the passage of time since the grant of consent and fact the site is operational, it is recommended this condition is omitted from any grant of permission in this case on the basis the inclusion of the condition is no longer necessary.

Condition no.17

This condition required that before the installation of any external plant such as air condition units, cooling units etc at the site outlined in red on the hereby approved plan Dwg. No. 3124(OS)01 other than that approved as part of condition 16, details of said plant shall be submitted to and approved in writing by the Local Planning Authority. It is recommended this condition is re worded to remove reference to condition no16 and also reflect the policies within the Kirklees Local Plan and Holme Valley Neighbourhood Development Plan.

Condition no.18

This condition required that notwithstanding the details set out on plan Dwg. No. 3124(0-)120 Rev E the southern building shall not be brought into use until all windows in the north eastern elevation of the southern building have been fitted with obscure glazing, minimum grade 4. It is recommended this condition is retained as worded, with update within the reason relating to the

fact the Kirklees Local Plan and Holme Valley Neighbourhood Development Plan has since been adopted.

Condition no.19

This condition required a scheme relating to electric vehicle charging to be submitted to, and approved in writing by, the LPA. A scheme was submitted as part of application 2018/90205. It is recommended any grant of permission includes this condition reworded to make reference to the aforementioned letter. It is recommended the reason for this condition is updated to refer to policies of the Kirklees Local Plan and Holme Valley Neighbourhood Development Plan.

Condition no.20

This condition requires that within the site outlined in red on the hereby approved plan Dwg. No. 3124(OS)01, A1 (retail) floorspace shall not exceed a total of 250 square metres of the development. This condition is recommended to be retained as worded other than update to the reason in relation to the fact the Kirklees Local Plan and Holme Valley Neighbourhood Development Plan has been adopted.

Condition no.21

This condition required that no building or other obstruction shall be located over or within 3.0 (three) metres either side of the centre line of the water main which crosses the site. This condition is recommended to be retained as worded other than update to the reason in relation to the fact the Kirklees Local Plan and Holme Valley Neighbourhood Development Plan has been adopted.

Condition no.22 and 23

These conditions required submission of a scheme of investigation and remediation and were discharged by application 2018/90205 and letter dated 14th March 2018. It is recommended these conditions are omitted from any grant of permission in this case given the works have been undertaken and they are no longer considered to be necessary.

Condition no.24

This condition required remediation to be carried out in accordance with the scheme approved by condition no.23. It is recommended this conditions is omitted from any grant of permission in this case given the works have been undertaken and it is no longer considered to be necessary.

Condition no.25

This condition required validation of the land quality to be submitted to, and approved in writing by, the LPA. Given the length of time which has elapsed

since the discharge of conditions 22 and 23 it is considered it is unnecessary in this case to include this condition upon any grant of permission.

Condition no.26

This condition required that prior to occupation of the development hereby approved, the applicant shall sign up to the Environment Agency's flood warning system 'Floodline Warnings Direct' and shall confirm in writing to the Local Planning Authority within 1 month of completion. It is recommended this is re worded to relate to the Kirklees Local Plan policies within the reason and to require this detail to be a compliance condition rather than requiring further detail to be submitted to the LPA.

A number of informative notes are included upon the grant of permission. It is recommended they are included on any grant of permission also.

CONCLUSION & RECOMMENDATION

There has been no significant change to the site allocation or national/local planning policy and guidance since the original consent. It is therefore considered that, subject to the wording of conditions being amended, where relevant, to the wording set out in the 'Review of Conditions' section of this report and all informative notes being re-imposed on this Section 73 application the proposal is acceptable.

It is therefore concluded that the variations to the approved plans proposed under this Section 73 application are acceptable and do not alter the conclusions reached and the recommendation made for original application.

Approval is recommended.

Recommendation

APPROVE

Decision Authorisation - Delegated Powers

Application Number: 2022/92015

Officer Recommendation: Approve variation of condition

Conditions

1. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

Reason: For the avoidance of doubt as to what is being permitted and to accord with Policies LP01, LP02, LP21, LP22, LP24, LP30 & LP52

of the Kirklees Local Plan and Policies within Chapters 2, 9, 12 and 14 of the National Planning Policy Framework

1. The external facing and roofing materials shall be in accordance with those set out within the letter sent by the Local Planning Authority dated 14th March 2018 submitted as part of application 2018/90205 and retained thereafter.

Reason: In the interests of visual amenity and to preserve the character and appearance of the Green Belt and local area and to accord with Policy LP24 of the Kirklees Local Plan, Policies 1 and 2 of the Holme Valley Neighbourhood Development Plan and policies within Chapters 12 and 13 of the National Planning Policy Framework.

2. The cycle storage shall be in accordance with those set out within the letter sent by the Local Planning Authority dated 14th March 2018 submitted as part of application 2018/90205 and retained thereafter.

Reason: In the interests of encouraging sustainable transport options, due to no vehicular parking being provided by the development and to accord with Policies LP20, LP22 and LP22 of the Kirklees Local Plan, Policies 1 and 2 of the Holme Valley Neighbourhood Development Plan.

3. The ecological design strategy shall be in accordance with that set out within the letter sent by the Local Planning Authority dated 25th June 2018 submitted as part of application 2018/90205 and retained thereafter.

Reason: To provide sufficient detail to enable the implementation of ecological mitigation and enhancement measures that have been specified in the ecological information supporting the application, to mitigate against the loss of protected trees by the development and to ensure the proposal accords with policy LP30 of the Kirklees Local Plan, policies within the Holme Valley Neighbourhood Development Plan and policies within Chapter 15 of the National Planning Policy Framework.

4. The containment, control and removal of Japanese Knotweed and Himalayan Balsam shall be in accordance with those set out within the letters dated 28th May 2019 and 12th July 2018 submitted as part of application 2018/90205. And retained thereafter.

Reason: To remove these species from within the site, as ecological enhancement, and prevent their spread into the wider environment as a result of construction activity, and to ensure the proposal accords with policy LP30 of the Kirklees Local Plan, policies within the Holme Valley Neighbourhood Development Plan and policies within Chapter 15 of the National Planning Policy Framework.

5. The hereby approved development shall operate in accordance with the following hours of use:

Northern Building: 0900 to 2300 any day of the week

Southern Building: 1000 to 2230 any day of the week

Deliveries or dispatches to or from the site: 0730 to 2000 Monday to Friday, 0800 to 1800 Saturdays and no deliveries Sundays and Bank Holidays

Reason: So as not to detract from the amenities of nearby residents and to accord with Policies LP24 and LP52 of the Kirklees Local Plan, policies 1 and 2 of the Holme Valley Neighbourhood Development Plan and policies contained within Chapter 15 of the National Planning Policy Framework.

6. Before the installation of any external plant such as air condition units, cooling units etc at the site outlined in red on the hereby approved plan Dwg. No. 3124(OS)01, details of said plant shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall set out the need for the additional plant, its siting, appearance and the predicated noise levels that would be generated through its operation. The additional plant shall thereafter operate in accordance with the approved details and be maintained and in accordance with the manufactures recommendations.

Reason: In the interests of the protection of residential amenity from any adverse noise arising from the operation of the development and to accord with Policies LP24 and LP52 of the Kirklees Local Plan, policies 1 and 2 of the Holme Valley Neighbourhood Development Plan and policies contained within Chapter 15 of the National Planning Policy Framework.

7. Notwithstanding the details set out on plan Dwg. No. 3124(0-)-120 Rev E the southern building shall not be brought into use until all windows in the north eastern elevation of the southern building have been fitted with obscure glazing, minimum grade 4. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) the window shall thereafter be so retained obscure glazed.

Reason: In the interests of the protection of residential amenity of the occupiers of the adjacent Royds Mill and to prevent unacceptable overlooking and to accord with Policies LP24 of the Kirklees Local Plan, policies 1 and 2 of the Holme Valley Neighbourhood Development Plan and policies contained within Chapter 15 of the National Planning Policy Framework.

8. All electric vehicle charging infrastructure shall be in accordance with that set out within the letter dated 14th March 2018 submitted as part of application 2018/90205 and retained thereafter.

Reason: To provide satisfactory air quality mitigation in accordance with the West Yorkshire Low Emission Strategy Planning Guidance and to accord with the guidance contained the National Planning Policy Framework and to accord with the requirements of Policies LP21 and LP24 of the Kirklees Local Plan.

9. Within the site outlined in red on the hereby approved plan Dwg. No. 3124(OS)01, A1 (retail) floorspace shall not exceed a total of 250 square metres of the development.

Reason: In the interests of highway safety, to ensure that the site operates in accordance with assumptions set out in the submitted transport assessments and to protect the vitality and viability of Holmfirth Town Centre, and to accord with Policies LP13 and LP21 of the Kirklees Local Plan and Policies in Chapter 2 of the National Planning Policy Framework.

10. No building or other obstruction shall be located over or within 3.0 (three) metres either side of the centre line of the water main which crosses the site.

Reason: To ensure the water main can be properly maintained in the interests of amenity, environmental wellbeing and to accord with Policy LP28 of the Kirklees Local Plan and Policies in the National Planning Policy Framework.

11. The applicant shall sign up to the Environment Agency's flood warning system 'Floodline Warnings Direct'.

Reason: In the interests of providing sufficient flood warnings for the future occupiers and to accord with the requirements of Policy LP27 of the Kirklees Publication Local Plan and Policies in the National Planning Policy Framework.

12. The development hereby approved shall be undertaken in accordance with the measures set out within the submitted document titled 'Restaurant Noise Management Plan' received on 23rd September 2024.

Reason: For the avoidance of doubt as to what is being authorised by this permission and to ensure the development has an acceptable impact upon the amenity of neighbouring occupiers as a result of noise to accord with policy LP52 of the Kirklees Local Plan and policies within Chapter 15 of the National Planning Policy Framework.

NOTE – Flood Warning System: The Environment Agency's flood warning system can be signed at online at <https://www.gov.uk/sign-up-for-flood-warnings> or by calling 0345 988 1188.

NOTE – Hours of Constriction: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

07.30 and 18.30 hours Mondays to Fridays
08.00 and 13.00hours , Saturdays

With no working Sundays or Public Holidays

In some cases, different site specific hours of operation may be appropriate. Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which work may be carried out.

NOTE – Works within the Highway: The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer (Kirklees Street Scene: 01484 221000) with regard to obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution

NOTE - Footpath: Holmfirth public footpath 50 is a public highway and consent from the local highway authority should be sought prior to any works to the public footpath. No authority is given by planning consent for works affecting the public footpath. Separate consent from the local highway authority would be required.

The development may require the temporary closure by formal legal order of public footpath Holmfirth 50, by separate application and process with separate fees. Further details form the council's Streetworks Unit at Flint St, Huddersfield or by email tma.permits@kirklees.gov.uk

NOTE – Environmental Permit: This development may require a permit under the Environmental Permitting (England and Wales) Regulations 2010 from the Environment Agency for any proposed works or structures, in, under, over or within eight metres of the top of the bank of the River Holme, designated a 'main river'. This was formerly called a Flood Defence Consent. Some activities are also now excluded or exempt. A permit is separate to and in addition to any planning permission granted. Further details and guidance

are available on the GOV.UK website: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>.

It can take up to two months to determine the application from being duly made. Every effort will be made to process it as quickly as possible, but you are reminded that works should not commence until the permit is granted.

NOTE - Flood Resilient Construction: It is recommend that consideration be given to use of flood proofing measures to reduce the impact of flooding when it occurs. Flood proofing measures include barriers on ground floor doors, windows and access points and bringing in electrical services into the building at a high level so that plugs are located above possible flood levels.

Please refer to the following document for information on flood resilience and resistance techniques to be included: 'Improving Flood Performance of New Buildings - Flood Resilient Construction' (DCLG 2007).

NOTE – Advice on Flooding: Additional guidance can be found in our Flood line Publications. A free copy of these is available by telephoning 0345 988 1188 or can be found on our website <https://www.gov.uk/topic/environmental-management/flooding-coastal-change>

Reference should also be made to the Department for communities and local Government publication 'Prepare your property for flooding' please go to: <https://www.gov.uk/government/publications/prepare-your-property-for-flooding> as well as the communities and local Government publication 'Improving the flood performance of new buildings' which can be viewed at: <https://www.gov.uk/government/publications/flood-resilient-construction-of-new-buildings>.

NOTE – Food Safety: It is recommended that prior to development commencing the applicant should contact the Food Safety Team of Environmental Services to arrange an advice visit to discuss food safety and hygiene requirements including an appropriate layout. The Food Safety team can be contacted on 01484 226452.

Plans and specifications schedule:-

Plan / Document Type	Reference	Revision	Date Received
Noise Assessment dated 10 th June 2022	-	-	13 th June 2022
Planning Statement	-	-	13 th June 2022
Addendum to Noise Impact Statement	-	-	27 th July 2022
Restaurant Noise Management Plan			23 rd September 2024

Plan / Document Type submitted as part of application 2017/91888	Reference	Revision	Date Received
Location Plan	3124(OS)01	-	15/6/2017
Workshop plans and elevations as existing	3124(0-)11	-	15/6/2017
Existing site sections	3124(0-)07	-	15/6/2017
Dyehouse plan and elevations as existing	3124(0-)10		15/6/2017
Floor plans as existing	3124(0-)02	-	15/6/2017
Site plan as existing	3124(0-)01	-	15/6/2017
Topographic survey	7408/1	-	15/6/2017
Overall Masterplan as proposed	3124(0-)100	D	10/11/2017
Proposed Elevations 1-3	3124(0-)120	E	10/11/2017
Proposed Elevations 4-7	3124(0-)121	E	10/11/2017
Proposed Elevations 8-10	3124(0-)122	R	10/11/2017
Ground Floor Site Plan as proposed	3124(0-)101	C	7/11/2017
Level 0 – Plan as proposed	3124(0-)110	H	7/11/2017
Level 1 – Plan as proposed	3124(0-)111	G	10/11/2017
Level 2 – Plan as proposed	3124(0-)112	E	10/11/2017
Level 3 – Plan as proposed	3124(0-)113	C	10/11/2017
Proposed Access and Visibility Plan	9863/003	-	7/11/2017
Design and Access Statement	3124 May 2017	-	15/6/2017
Planning Policy Statement	-	-	15/6/2017
Retail Sequential Assessment	-	-	15/6/2017
Devour Business Plan	-		
Arboricultural Survey	May 2017 940-02 Luke Lane, Thongsbridge, Holmfirth	-	15/6/2017
Arboricultural Method Statement	May 2017 940-02 Luke Lane, Thongsbridge, Holmfirth	-	15/6/2017
Bat, Otter and Water	940-05	-	8/9/2017

Plan / Document Type submitted as part of application 2017/91888	Reference	Revision	Date Received
Vole Surveys	September 2017		
Preliminary Ecological Appraisal	March 2017 940-01a Luke Lane, Thongsbridge, Holmfirth	-	15/6/2017
Ecology Covering Note	940-210917-TF/NW	-	22/9/2017
Ecology Statement	-	-	16/10/2017
Phase 1 Desktop Contaminated Land Study Report	16-1086	-	15/6/2017
Flood Risk and Drainage Assessment	R4692	-	15/6/2017
Transport Statement	9863//001/05	-	8/9/2017
Additional Transport Statement 1	9863-004	-	7/11/2017
Additional Transport Statement 2	9863-004	-	10/11/2017

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. No amendments were sought as it was considered that the proposal was acceptable as submitted.

Report Dated: 7th October 2024

Coal – low

