

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 70

DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS

Reference No:	2022/62/92081/E
Site Address:	Land at, Huddersfield Road/Leeds Road, Birstall, Batley, WF17 9AA
Description:	Demolition of existing buildings and erection of retail food store with associated parking and landscaping
Recommending Officer:	Nina Sayers

DECISION - REFUSE

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

Sarah Longbottom

AUTHORISED OFFICER

Date: 22 January 2025

Officer Report

Site Description

Land at, Huddersfield Road/Leeds Road, Birstall, Batley, WF17 9AA.

The application site is a 0.28ha plot located adjacent to the junction of Huddersfield Road and Leeds Road in Birstall Batley. The site comprises a terrace of four, two-storey dwellings, three of which are vacant and boarded up, a large commercial unit which has previously served a garage and car sales, and associated hardstanding. The surrounding area is a mixture of commercial and residential units, predominantly finished in stone, however there is red brick, cladding and render present in the vicinity. The site slopes downwards towards the south-west and it is noted that the properties on Brownhill Road to the south-east are set at a significantly higher topography. The site is partially located within Birstall Conservation Area. Birstall District Centre is located approximately 40m west of the site.

Description of Proposal

The applicant is seeking permission for the demolition of existing buildings and erection of retail food store with associated parking and landscaping.

The proposal would include the demolition of the existing terrace of houses and commercial unit. The proposed retail unit would comprise a detached unit which appears two-storey from the exterior with a single storey set down element which wraps around the side and rear. The building would be set to the front of the site, facing the junction of Huddersfield/Leeds Road. The entrance and associated parking would be to the north-east of the property. Deliveries would be to the rear of the property. Road access would be to the eastern point of the site, onto Leeds Road.

History of Negotiations

Officers had concerns regarding the design of the proposal in relation to the historic environment. Amended plans were sought and received amending the proposed materials.

Concerns were also raised by officers regarding the principle of a new retail unit outside of the defined centre boundary, as detailed in the principle of development section of this report. Supporting information was submitted and reviewed by officers on multiple occasions and the agent met with officers to discuss this matter directly. The submitted information did not overcome officers' concerns.

Concerns were also raised regarding the proposed access in relation to highway safety. A visibility & vehicle tracking plan and revised site plan was received and following this, a traffic impact assessment and bus stop relocation plans were then submitted. This still did not overcome highway concerns. Further information was provided, and KC Highways DM were satisfied with the submitted information.

Relevant Planning History

2022/93370 Installation of plant equipment (within a Conservation Area). Pending determination.

2022/93371 Advertisement Consent for internally illuminated and non-illuminated signs. Pending determination.

Consultations

Below is a summary of the consultation responses received:-

The Environment Agency – no response.

Yorkshire Water - no objection subject to conditions.

KC Trees - no objection subject to conditions.

KC Planning Policy – object to the proposal.

KC Highways Development Management (HDM) – no objection subject to condition.

KC Environmental Health - no objection subject to conditions.

KC Ecology - no objection subject to conditions.

KC Designing out Crime Officer – no objection, recommendations given.

KC Conservation & Design – No objection subject to conditions.

KC Waste Strategy - response received.

KC LLFA – Comments received.

Representations

The application was advertised by neighbour notification letters, site notice, in the press and online due to being located partially within a conservation area. Final publicity expired on 11th August 2022. 46 representations were received from 42 individuals. These comprised of 5 general comments, 38 representations in objection and 3 in support. These have been summarised as follows:

General comment:

- Access on a busy junction will impact on congestion, potentially more accidents
- Access should be as far from the junction as possible
- Additional congestion could block access to neighbouring properties
- Comments relating to a proposed Lidl store

Objections:

- Highway safety concerns
- Birstall already has convenience stores
- This development would take customers away from the centre which is already struggling
- Junction is already congested
- Loss of terrace of houses is detrimental to conservation area
- Transport Statement needs amending
- School pick up not included in transport statement
- Bus at bus stop would reduce visibility

- Disruption to highway as a result of construction vehicles
- Noise to nearby residents
- Struggling footfall in town centre already
- Need more housing not shops
- Unsightly
- Harm to conservation area
- Site is only an eye-sore because the terrace of houses were left abandoned

Support:

- No convenience store this side of Birstall
- Existing terraces look disgraceful
- Traffic is bad anyway
- Area is currently an eye-sore

These comments will be discussed in section 6 the report.

Officers note a significant number of representations have been received. In line with the scheme of delegation, this application must be referred to planning committee if the council received a significant number of representations against the officer's recommended decision. As the majority of representation received are in objection, if officers are recommending a refusal of this application then it can be a delegated decision. It is also noted that one of the ward members for this application, Cllr Smaje, requested that this application be determined at planning committee, but only if officers are recommending approval.

Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is unallocated on the Kirklees Local Plan (2019) but is partially located within Birstall Conservation Area.

Kirklees Local Plan (KLP):

- LP 1 – Achieving sustainable development
- LP 2 – Place shaping
- LP 3 – Location of new development
- LP 13 – Town Centre Uses
- LP 21 – Highway safety and access
- LP 22 – Parking
- LP 24 – Design
- LP 28 – Drainage
- LP 35 – Historic environment
- LP 51 – Protection and improvement of local air quality
- LP 52 – Protection and improvement of environmental quality

- LP 53 – Contaminated and unstable land

Supplementary Planning Documents (SPD):

Kirklees Council has adopted (as of 29th June 2021) supplementary planning documents for guidance on house building, house extensions and open space, to be used alongside existing SPDs previously adopted. They are now being considered in the assessment of planning applications, with full weight attached. This guidance indicates how the Council will usually interpret its policies regarding such built development, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the host property and the wider street scene.

- Biodiversity Net Gain Technical Advice Note
- Highways Design Guide

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published December 2024, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- Chapter 6- Building a strong, competitive economy.
- Chapter 7 – Ensuring the vitality of town centres.
- Chapter 9 – Promoting sustainable transport.
- Chapter 12 – Achieving well designed places.
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change.
- Chapter 15 - Conserving and enhancing the natural environment.
- Chapter 16 - Conserving and enhancing the historic environment.

Assessment

The following matters are considered in the assessment below –

- 1) Principle of development
- 2) Impact on visual amenity and the historic environment
- 3) Impact on residential amenity
- 4) Highway safety
- 5) Other matters
- 6) Representations
- 7) Conclusion

1. Principle of Development

NPPF paragraph 12 and LP1 outlines a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation. The dimensions of sustainable development will be considered throughout this proposal. The site is without notation on the KLP Policies Map, however it is partially located within a Conservation Area.

Policy LP2 states that: 'All development proposals should seek to build on the strengths, opportunities and help address challenges identified in the local plan, in order to protect and enhance the qualities which contribute to the character of these places, as set out in the four sub-area statement'.

Chapter 11 of the NPPF requires that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improvement the environment and ensure safe and healthy living conditions. As well as this, Local Planning Authorities have the responsibility to help create the conditions, in which businesses can invest, expand, and adapt. It follows that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

The application is for the erection of a main town centre use outside of the town centre boundary. In accordance with Chapter 7 of the NPPF and Policy LP13 of the KLP, main town centre uses shall be located within defined centres. Proposals for main town centre uses located outside of the defined centre boundaries require the submission of a Sequential Test to demonstrate that there are no suitable sites within existing centres. Main town centre uses shall be first located in the defined centres, then edge of centre locations and only if there are no suitable sites shall out of centre locations be considered.

Section C of policy LP13 of the KLP requires a retail impact assessment to be submitted for any proposal located within 800 metres of the boundary of a Town Centre or District Centre which is greater than 300m² gross. This proposed application site is approximately 40-50m from Birstall District Centre and would have a gross area of 408m² and therefore a retail impact assessment is required for this application.

Paragraph 94 of the NPPF state that a retail impact assessment should include the assessment of:

- a) The impact of the proposal on existing, committed and planning public and private investment in a centre or centres in the catchment area of the proposal; and
- a) The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme)

Paragraph 95 of the NPPF states *“where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one of more of the considerations in paragraph 94, it should be refused”*.

The applicant has submitted a retail sequential test and retail impact assessment with this application. This has been reviewed by Nexus Planning, an independent retail advisor. Nexus are in agreement with the applicant in respect of the sequential approach to development. Nexus have reviewed all the sites identified by the applicant and do not believe that any are either available or suitable to accommodate the application proposal, even allowing for appropriate flexibility. Nexus are unaware of any other sequential sites offering realistic potential to accommodate the proposal and, as such, find that it accords with the requirements of paragraphs 91 and 92 of the NPPF.

Regarding the impact assessment, Nexus considered there is no private or public sector investment which would be materially impacted by the implementation of the proposed development, thus complying with the first part of the impact test.

The Nisa, formally a Co-op, and Tesco both have convenience stores located within Birstall District Centre boundary, both of which are considered of fundamental importance in underpinning the health of the Birstall District Centre. A substantial quantum of trade would be diverted from the Nisa and Tesco Express stores within the centre. Officers consider that the application proposal would trade most directly against these stores and the level of trade diversion from these stores would be substantial relative to their turnover.

Due to the level of trade diversion which it is considered would be apparent, the proposal is likely to have a significant impact on the vitality and viability of Birstall District Centre including local consumer choice and trade in the town centre in relation to paragraph 94 (b) of the National Planning Policy Framework. Subsequently, as set out at paragraph 95 of the National Planning Policy Framework, the application should be refused. For the same reasons, the proposal would not be supported by Policy LP13 of the Kirklees Local Plan.

Following discussions with officers, the applicant submitted a supporting email, along with 4 examples of appeal cases. The applicant outlined that “Nexus have not said (a) whether one or both of the stores would close as a result; or (b) what the impacts of either one store closing, or both stores closing, would have on the vitality and viability of Birstall centre.” They also outlined that they did not believe the calculated impact was significant enough to demonstrate a harm to the town centre and gave examples of appeal decisions which have been upheld based on greater figures.

Officers have reviewed this information. It is considered that the proposals would have a harmful impact on a district centre. The district centre is smaller in size in comparison to a town centre and therefore would be more vulnerable to a new retail unit opening. Therefore, even if the calculated figures were lower than those outlined in other appeal decisions, in this

instance officers believe the impact would still be significant enough to harm the vitality and viability of the district centre.

Officers concur with Nexus Planning's assessment of the retail impact assessment and therefore the principle of retail development on this site is considered unacceptable and would fail to accord with paragraphs 94 and 95 of the NPPF. For the same reasons, the proposal is not supported by Policy LP13 of the Kirklees Local Plan. The development will now be assessed against all other material considerations.

1. Impact on Visual Amenity

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) provides a principal consideration concerning design which states: "The creation of high-quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities".

Kirklees Local Plan policies LP1, LP2 and significantly LP24 all also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity. LP24 states that proposals should promote good design by ensuring: "a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape...".

Due to the site's location partially within the Birstall Conservation Area, Section 72 of the Planning (Listed Buildings & Conservation Areas) Act (1990) is relevant, and requires that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the appearance or character of the Conservation Area.

Section 72 of the Planning (Listed Building & Conservation Areas) Act (1990) is mirrored in Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

Policy LP35 of the Kirklees Local Plan will also be taken into account, stating that *"development proposals affecting a designated heritage asset...should preserve or enhance the significance of the asset. In cases likely to result in substantial harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring substantial public benefits that clearly outweigh the harm"*.

The existing terrace of houses which front the highway fall within Birstall Conservation Area. The submitted Heritage Statement provides a good assessment of the buildings, context and setting within the Conservation Area. The Heritage Statement is supported by a structural report. The terrace is in a poor state of condition and, as picked up in the structural report, there are serious areas of concern. The submitted information details that to retain

the properties would require significant work, including a re-build and additional strengthening.

KC Conservation and Design (C&D) while considering that the loss of the building will have a harmful impact on the Conservation Area, the loss of the building is accepted. The building is in a poor state of repair and the costs associated with bringing it back into use would be considerable. This is supported by the Structural report.

The proposed building would be in a prominent position on the junction of Huddersfield Road and Leeds Road and as such would have an impact on the wider street scene and historic character of the area.

The proposal is for the erection of a detached retail unit which, whilst single storey inside, would appear two-storey from the exterior. There would be a single storey wrap around element to the side and rear. The proposed materials were amended by the applicant following comments from KC C&D who raised concerns that the initial material palette was not characteristic of the surrounding area and historic environment. The revised scheme shows the building constructed in pitched face coursed stone walling to the front and sides and pitched face "Cromwell" walling to the rear. It is noted that submitted plans show blue slate roofing, however upon discussion with the applicant they have agreed to a condition requiring stone slates, or Indian stone slates for the roofing materials should approval be recommended.

Whilst it is noted that KC Conservation and Design requested that the entire building appeared two-storey, and this is still preferable, the applicant provided a justification for the proposed design. They stated that the prominent elevations would be two-storey and given the scheme would be internally single storey, for the entire building to be two-storey would create a large void/unused space. Therefore, on balance, KC Conservation and Design did not object to the proposal. Officers are therefore satisfied that the proposed revised scheme would not cause significant harm to the visual amenity of the wider street scene or the historic character of the area.

It is noted that there is already significant hardstanding within the site and therefore the addition of a car parking area would not cause any significant additional harm to visual amenity, over and above the existing arrangement on site. Any additional soft landscaping proposed would be an improvement to the site.

Having taken the above into account, it is considered the proposed development would not cause any significant harm to visual amenity or historic character, complying with Policy LP24 and LP35 of the Kirklees Local Plan and the aims of chapter 12 and 16 of the National Planning Policy Framework.

2. Impact on Residential Amenity

Local Plan Policy LP24 states that proposal should 'minimise impact on residential amenity of future and neighbouring occupiers'. Further to this,

Chapter 12 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

There are residential dwellings surrounding the east, south and west of the site. In terms of additional overlooking, overbearing or overshadowing harm, the proposed building would be a minimum of 24m from the nearest residential dwelling which is considered a sufficient distance to prevent any significant harm to the amenity of the occupants.

It is noted that the coming and goings of customers, particularly in the adjacent carpark, could result in additional overlooking harm. The main entrance and footways for pedestrians is to the front of the property which would be shielded from any neighbouring properties by the proposed structure. The proposed car parking area is in the same location as an existing carpark and access which formerly served as a garage. There are trees to the eastern boundary of the site which would be retained as part of the proposal. No.3 Leeds Road, which is directly adjacent to the eastern boundary of the site, is set at a significantly higher elevation, and therefore it is considered that even if the trees were to be removed, that no significant overlooking harm would occur as a result of the proposed development.

KC Environmental Health (EH) have reviewed the proposal and have recommended a condition requiring a full Air Quality Assessment to be submitted to, and approved by, the local planning authority (LPA) prior to the development being brought into use. In order to reduce the impact of any additional noise which may occur from the proposed use, KC EH have also recommended conditions restricting the hours of use and delivery times, as well as the erection of an acoustic barrier to the southern and western boundaries. The noise from any fixed external plant and equipment shall also be effectively controlled as to not exceed the background sound level at any time. To ensure no additional harm is caused to neighbouring occupier as a result of any additional lighting, KC EH also recommend a condition requiring a lighting scheme to be submitted to and approved by the LPA. Officers concur with this recommendation in line with Policies LP24(b), LP51 and LP52 of the Kirklees Local Plan and the aims of Chapter 12 and 15 of the NPPF.

Taking the above into consideration, subject to conditions, the proposed development is considered to not cause significant harm to the amenity of neighbouring occupiers and as such would not have an adverse or detrimental impact on residential amenity and the health and wellbeing of the occupiers. Complying with LP24, LP51 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

3. Impact on Highway Safety

Local Plan Policy LP21 states that 'All proposals shall:

a. ensure the safe and efficient flow of traffic within the development and on the surrounding highway network...

e. Take into account the features of surrounding roads and footpaths and provide adequate layout and visibility to allow the development to be accessed safely;'

This is supported by Chapters 9 and 12 of the NPPF and guidance within the Highways Design Guide SPDs. KC Highways Development Management (KC HDM) have also been consulted as part of this application.

This application seeks approval to the demolition of existing buildings and the erection of a retail food store with associated parking and landscaping. The site is located at the signalised junction of A62 Huddersfield Road/Geldard Road and A643 Leeds Road/Nelson Street. Leeds Road and Huddersfield Road are principal routes connecting Leeds with Brighouse and Huddersfield and are subject to heavy traffic volumes throughout the day.

In response to extensive negotiations between the agent and KC Highways Development Management (HDM), the following additional information has been submitted:

- Transport Statement

Throughout the course of the application KC HDM have raised concerns regarding intensification in turning movements, the inability to re-site the existing bus stop, sub-standard junction visibility, UTC comments regarding impact on the A62/ A643 junction, and concerns regarding poor servicing arrangements and that the TRICs Assessments may not be representative.

Following the submission of the PICADY assessment, Highway DM have confirmed that Paragon Highways Plan number 1620-201C shows the proposed access moved to the west to allow the provision of a widened footway into the site and improve visibility from the site access to the east or right when exiting the site. Vehicle swept paths are shown which demonstrate that a 16.5m articulated lorry can enter, exit and turn within the site.

Investigation have been undertaken in conjunction with West Yorkshire Combined Authority (WYCA) and the Councils Highway Safety Section with a view to finding a suitable revised location for the bus stop at the site entrance, unfortunately no suitable location has been identified. Consequently, there are just 6 buses per hour and the footway is to be widened the bus stop is to remain in its current location.

Whilst the vehicle swept paths provided by Paragon Highways demonstrate that a 16.5 m articulated lorry can theoretically access and turn within the site, the swept paths are tight to kerb line, vehicle parking spaces and other features within the site and a Service Management Plan should therefore be conditioned which should restrict the size of vehicles that can enter the site.

Overall, following extensive discussions, KC Highways have no objections to the proposal subject to conditions requiring:

- Service Vehicle Management Plan
- Construction Traffic Management Plan
- Turning facilities to be provided
- Measures to Managing Parking to Leeds Road site frontage (7am to 6.30pm Mon to Sat to no parking at any time)

Should approval be recommended officers would recommend the above conditions are added.

As such, based on the above assessment, there is sufficient information provided to support the operation of this application in terms of highway safety. As such, the application is not considered to have a detrimental impact upon the safe and efficient operation of the highway network and would comply with LP21, LP22 and LP24 of the Kirklees Local Plan and paragraph 114 of the NPPF as well as the aims of the Highways Design Guide SPD.

4. Other Matters

Drainage

The application site is located within Flood Zone 1. Given the scale of the site, the Lead Local Flood Authority (LLFA) were consulted on the scheme. A CCTV survey of the drainage within the site has been undertaken, however this did not include a survey of the existing culvert crossing into the site. A full survey of the culvert would be required to confirm its route, ensure it is of adequate depth, is in a suitable condition and has the capacity for the proposed surface water discharge from the new development.

The submitted drainage drawing does not indicate that the required easement has been provided between the proposed building and the existing culvert. The proposed surface water discharge rate of 3.5 l/s and the submitted calculations indicate no flooding for the critical 1 in 100 year (plus climate change) storm event with the proposed 94m³ storage tank are acceptable to the LLFA.

Flood routing following an exceedance event or blockage should be indicated on plan and should show that no existing or proposed buildings within or outside the site would be at risk of flooding.

Details of the proposed method of connecting the surface water drainage outfall into the existing culvert should be submitted for approval. Details of the proposed temporary drainage should be submitted indicating that run-off during the construction phase is controlled to prevent silts leaving the site during rainfall and the flow is limited to 2.5 l/s per ha for the 1 in 2 year storm (unless otherwise agreed with the LLFA).

Details of the proposed drainage maintenance following completion of the development should be submitted including a Maintenance Schedule and indicating which organisation will be responsible for maintenance of unadopted drainage.

Taking the above into consideration, the LLFA do not object to the proposal but recommend conditions relating to drainage details, overland flow routing and construction phase surface water flood risk and pollution prevention. Subject to these conditions, they have no objection to the proposal.

Contaminated land

The site of the proposed development is on land identified as potentially contaminated due previous commercial use and its proximity to a landfill site. KC Environmental Health (EH) therefore recommend contaminated land

conditions should approval be recommended. The scheme would therefore comply with Policy LP53 of the Kirklees Local Plan and paragraph nos. 196 and 197 of the National Planning Policy Framework.

5. Representations

46 representations were received in response to site publicity, comprising 5 general comments, 38 in objection and 3 in support. These have been summarised as follows:

General comment:

- Access on a busy junction will impact on congestion, potentially more accidents
- Access should be as far from the junction as possible
- Additional congestion could block access to neighbouring properties

Officer comment: These are material planning considerations that have been carefully considered in the highway safety section of this report.

- Comments relating to a proposed Lidl store

Officer comment: This application is considered on its own merits taking into consideration all relevant planning consideration.

Objections:

- Highway safety concerns
- Junction is already congested
- Bus at bus stop would reduce visibility
- Disruption to highway as a result of construction vehicles
- Transport Statement needs amending
- School pick up not included in transport statement

Officer comment: These are material planning considerations that have been carefully considered in the highway safety section of this report.

- Birstall already has convenience stores
- This development would take customers away from the centre which is already struggling
- need more housing not shops
- Struggling footfall in town centre already

Officer comment: These are material planning considerations that have been carefully considered in the principle of amenity section of this report.

- Loss of terrace of houses is detrimental to conservation area
- Unsightly
- Harm to conservation area
- Site is only an eye-sore because the terrace of houses were left abandoned

Officer comment: These are material planning considerations that have been carefully considered in the visual amenity and historic character section of this report.

- Noise to nearby residents

Officer comment: This is a material planning consideration that has been carefully considered in the residential amenity section of this report.

Support:

- No convenience store this side of Birstall

Officer comment: This is a material planning consideration that has been carefully considered in the principle of development section of this report.

- Traffic is bad anyway
- Area is currently an eye-sore
- Existing terraced look disgraceful

Officer comment: These are material planning considerations that have been carefully considered in the visual amenity and historic character section of this report.

6. Conclusion

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration.

Recommendation:

Refuse

Application number: 2022/92081

Officer Recommendation: REFUSE

Reason for Refusal:

The proposed development of a retail unit in this location, outside of the defined town centre boundary, would divert a substantial quantum of trade from the Nisa and Tesco Express stores within the Birstall District Centre, both of which are considered to be of fundamental importance in underpinning the health of the Birstall District Centre.

It is considered that the application proposal would trade most directly against these stores and the level of trade diversion from these stores would be substantial relative to their turnover. Due to the level of trade diversion which it is considered would be apparent, the proposal is likely to have a significant

adverse impact on the vitality and viability of Birstall District Centre including local consumer choice and trade in the town centre, in relation to paragraph 94 (b) of the National Planning Policy Framework. Subsequently, as set out at paragraph 95 of the National Planning Policy Framework, the application should be refused. For the same reasons, the proposal would not be supported by Policy LP13 of the Kirklees Local Plan.

Plans and Specifications Table:-

Plan Type	Reference	Version	Date Received
Location Plan	WLLR-MWA-XX-XX-DR-A-0001	P1	20/06/2022
Site Plan	MWA 198 Birstall	1	20/06/2022
Proposed Site Plan	WLLR-MWA-XX-XX-DR-A-1001	P7	20/06/2022
Existing Plans – Vehicle Workshop	WLLR-MWA-XX-ZZ-DR-A-0005	P1	20/06/2022
Existing Elevations – Vehicle Workshop	WLLR-MWA-XX-ZZ-DR-A-0006	P1	20/06/2022
Existing Plans – Dwellings	WLLR-MWA-XX-ZZ-DR-A-0003	P1	20/06/2022
Existing Elevations – Dwellings	WLLR-MWA-XX-XX-DR-A-0004	P1	20/06/2022
Existing Drainage Plan	15124		20/06/2022
Proposed Elevations and 3D View	WLLR-MWA-XX-XX-DR-A-0103	P9	
Proposed Ground Floor Plan	WLLR-MWA-XX-GF-DR-A-0102		20/06/2022
Engineering Feasibility Plan	E20/7706/01C		
Bus Stop Relocation Plan	1620-301	P3	05/09/2023
Visibility and Vehicle Tracking 16.5m Max Legal Articulated Lorry	1620-201C		14/10/2022
Heritage Statement	March 2022		20/06/2022
Planning Policy Supporting Statement			20/06/2022
Noise Impact			20/06/2022

Assessment			
Update Preliminary Ecological Appraisal	March 2022		20/06/2022
Impact assessment on turnover of key centres and stores			20/06/2022
Retail Impact Assessment			20/06/2022
Transport Statement	1690(C)	March 2022	20/06/2022
Surface Drainage Feasibility Calculations	E20/7706	May 2021	20/06/2022
Arboricultural Impact Assessment	15964-A/AJB		20/06/2022
Arboricultural Report	15964/AJB		20/06/2022
Dusk Emergence Bat Survey	1403b	May 2021	20/06/2022
Design and Access Statement			20/06/2022
Traffic Impact		Aug 2023	05/09/2023
Appraisal of Retail and Town Centre Issues			01/03/2023
Technical Note	1620E		20/06/2022
Retail Sequential Test			20/06/2022

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 Planning Authority has, 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.

Officers had concerns regarding the design of the proposal in relation to the historic environment. Amended plans were sought and received amending the proposed materials.

Concerns were also raised by officers regarding the principle of a new retail unit outside of the defined centre boundary, as details in the principle of development section. Supporting information was submitted and reviewed by

officers on multiple occasions and the agent met with officers to discuss this matter directly. The submitted information did not overcome officer concerns. Concerns were also raised regarding the proposed access in relation to highway safety. A visibility & vehicle tracking plan and revised site plan was received and following this, a traffic impact assessment and bus stop relocation plans were then submitted. This still did not overcome highway concerns. Further information was provided, and highways were satisfied with the submitted information.

Report Dated: 22/01/2025