

**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:	2022/70/93158/W
Site Address:	Former Homecare DIY, Westbourne Road, Huddersfield, HD1 4LF
Description:	Variation condition 5 (opening hours) on previous permission 2013/92338 for change of use of retail unit to indoor sport and recreation unit
Recommending Officer:	William Simcock

DECISION – Approve Variation of Condition

**I hereby authorise the approval of this application in accordance with
the Committee Authorisation annexed below in respect of the above
matter.**

Teresa Harlow

AUTHORISED OFFICER

Date: 26-Apr-2023

Decision Authorisation – Committee Decision

Committee: Huddersfield Sub-Committee

Date of Committee: 13-Apr-2023

Application Number: 2022/93158

Officer Recommendation: Grant variation of condition for 6-month limited period

Committee Decision: Grant variation of condition (permanent) with additional condition regarding a fire door

Conditions and Reasons

1. The development hereby permitted shall be carried out in complete accordance with the plans and specifications 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 so as to ensure that the permission, as varied, does not result in harm to residential amenity or highway safety, and to accord with the aims of Policies LP16, 21, 22, 24 and LP52 of the Kirklees Local Plan.

2. The existing car park shall be retained as surfaced and marked out and free from all obstructions to its use for the parking and manoeuvring of vehicles.

Reason: In the interests of the safety and convenience of highway users and to accord with the aims of Policies LP16(e) and LP21-22 of the Kirklees Local Plan.

3. The car park shall operate in full accordance with the management plan submitted with discharge of condition ref 2014/90523.

Reason: In the interests of the safety and convenience of highway users and to accord with the aims of Policies LP16(e) and LP21-22 of the Kirklees Local Plan.

4. The use hereby permitted shall not be open to customers outside the hours of:

Friday 09:00 to 00:30 hours Saturday,

Saturday 09:00 to 00:30 hours Sunday,

Sunday to Thursday 09:00 to 23:15 hours on each day

Reason: In the interests of preventing loss of amenity to adjoining and nearby residential properties arising from noise disturbance and to accord with the

aims of Policies LP16(b), LP24(b) and LP52 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

5. There shall be no deliveries to or dispatches from the premises outside the times of 08:00 to 18:00 Monday to Friday and 09:00 to 17:00 Saturdays. No deliveries or dispatches shall take place on Sundays or Bank Holidays.

Reason: In the interests of preventing loss of amenity to adjoining and nearby residential properties arising from noise disturbance and to accord with the aims of Policies LP16(b), LP24(b) and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

6. Noise from amplified music shall be controlled so as to be inaudible at noise-sensitive premises.

Reason: In the interests of preventing loss of amenity to adjoining and nearby residential properties arising from noise disturbance and to accord with the aims of Policies LP16(b), LP24(b) and LP52 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

7. Noise from fixed plant shall be controlled so as to be inaudible at noise-sensitive premises.

Reason: In the interests of preventing loss of amenity to adjoining and nearby residential properties arising from noise disturbance and to accord with the aims of Policies LP16(b), LP24(b) and LP52 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

8. No extract ventilation systems shall be installed unless in accordance with details that shall have been first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of preventing loss of amenity to adjoining and nearby residential properties arising from noise disturbance and to accord with the aims of Policies LP16(b), LP24(b) and LP52 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

9. No outdoor lighting shall be installed unless in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of preventing harm to visual and residential amenity arising from glare, light trespass and light spill, and to accord with the aims of Policies LP16(b), LP24(b) and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

10. No mezzanine floor shall be inserted in the building outlined in red on the hereby approved location plan.

Reason: To ensure that the extent and scale of the use at the site is adequately controlled in the interests of highway safety and residential amenity and to accord with Policies LP16(b&e), LP21 and LP22 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

11. The bin storage for the hereby approved development shall only be located along the southern elevation of the application building as indicated on the floor plan submitted on 13 September 2013. The bins shall remain positioned in this location free of obstructions and available for storage throughout the lifetime of the development.

Reason: In the interests of amenity and highway safety and to comply with Policies LP21 and LP24 of the Kirklees Local Plan, the Council's sustainability objectives set out in the National Planning Policy Framework.

12. The cycle storage spaces approved accordance with details approved under discharge of condition no. 2014/90523 shall be retained as such.

Reason: To enhance sustainable transport options at the site and linkages with the local neighbourhood, and to comply with the aims of Policy LP20 of the Kirklees Unitary Development Plan and to accord with chapter 3 of the National Planning Policy Framework.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no development within Schedule 2 Parts 3 or 4 of said Order shall be carried out.

Reason: In the interests of the protection of residential amenity and highway safety and to accord with Policies LP16(b&e), LP21 and LP22 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

14. The premises shall operate at all times in full accordance with the Noise Management Plan by Malcolm Sizer submitted February 2023.

Reason: In the interests of preventing loss of amenity to adjoining and nearby residential properties arising from noise disturbance and to accord with the aims of Policies LP16(b), LP24(b) and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

15. Within 1 month of the date of this permission, the fire door in the southern elevation of the building shall be replaced with a new fire door. The new fire door shall have a specification calculated with the sound reduction index so that the noise from amplified sound/music and speech from within the premises is inaudible at the nearest noise sensitive property, including any outdoor amenity space.

Reason: In the interests of preventing loss of amenity to adjoining residential properties arising from noise disturbance and to accord with the aims of Policies LP16(b), LP24(b) and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

NOTE: With reference to condition (15), The **sound reduction index** is expressed in decibels (dB) and is used only to describe the index for a single component or partition. The index expresses the difference between the sound intensity hitting one side of a component or partition and the resulting sound measured on its other side.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Application form			30-Sep-2022
Planning Statement			30-Sep-2022
Appeal decision letter	2198404		30-Sep-2022
Playworld statement 2014	2014/90523		30-Sep-2022
Playworld licensing panel decision	Application for variation of premises license 03-Aug-2022		30-Sep-2022
Location Plan			30-Sep-2022
Car park management plan	2014/90523		03-Apr-2014
Proposed floor plans	2013/92338 Northlight Architecture		13-Sep-2013
Car park layout and cycle storage details	AL 01 (application ref. 2014/90523)		10-Jun-2014
Noise management plan	M Sizer		27-Feb-2023

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 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. The case officer requested the applicant submit a Noise Management Plan to demonstrate that the premises would be able to operate at the extended hours without causing loss of amenity to neighbouring residential premises. The Planning Sub-Committee resolution was to grant a permanent variation to the approved opening hours.

Report Dated:

24-Apr-2023