

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended)

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

Reference No:	2023/44/92061/E
Site Address:	119, Huddersfield Road, Mirfield, WF14 9DA
Description:	Discharge of conditions 6 (right-turn lane), 8 (Construction Management Plan), 10 (electric vehicle charging), 11 (Phase II report), 16 (Air Quality Impact Assessment), 18 (temporary drainage), 20 (surface water drainage), 22 (hardstanding drainage) and 27 (external lighting) of previous outline permission 2019/92221 for demolition of existing buildings and erection of Class E retail unit, access, car parking, servicing, landscaping and associated works (all matters reserved other than access)
Recommending Officer:	Nick Hirst

DECISION – Discharge of Conditions – Split Decision

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

Victor Grayson

AUTHORISED OFFICER

Date: 16-Oct-2023

Application: 2023/44/92061/E

Site: 119 Huddersfield Road, Mirfield, WF14 9DA

Proposal: Discharge of conditions 6 (right-turn lane), 8 (Construction Management Plan), 10 (electric vehicle charging), 11 (Phase II report), 16 (Air Quality Impact Assessment), 18 (temporary drainage), 20 (surface water drainage), 22 (hardstanding drainage) and 27 (external lighting) of previous outline permission 2019/92221 for demolition of existing buildings and erection of Class E retail unit, access, car parking, servicing, landscaping and associated works (all matters reserved other than access)

Assessment

Condition 6 (right-turn lane)

6. Notwithstanding the submitted information, a detailed scheme for the provision of a right turn lane from Huddersfield Road into the site and new pedestrian refuges on Huddersfield Road that is based on drawing number 15151-101 Revision D shall be submitted to and approved in writing by the Local Planning Authority before development commences. The scheme shall include construction specifications, white lining, signing, surface finishes and transport regulation orders together with an independent Safety Audit covering all aspects of the work. All of the agreed works shall be implemented before any part of the development is first brought into use.

Reason: *In the interests of highway safety and to accord with Policy LP21 of the Kirklees Local Plan. This is a pre-commencement condition so that such matters are addressed at an appropriate stage of the development process.*

The applicant is in negotiations with K.C. Highways (Section 278 team). An acceptable highway design has not been proposed to date. The applicant's submitted design does not address the requirements to ensure the safe and efficient use of the highway. Until the design is revised to the satisfaction of K.C. Highways, officers are unable to recommend approval.

Condition 8 (Construction Management Plan)

8. A Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority before development commences. The CMP shall include:

- *Details of the times of use of the access for construction traffic;*
- *Routing of construction traffic;*
- *Construction workers parking facilities;*
- *A scheme to demonstrate how the highway will be kept clear of mud/debris;*
- *Measures to mitigate the impact of noise & vibration on neighbouring residential properties arising from all construction*

related activities (including suitable restrictions on the hours of working on the site including times of deliveries);

- *Measures to mitigate the impact of dust on neighbouring residential properties arising from all construction related activities and;*
- *Details of artificial lighting used in connection with all construction related activities.*
- *Details of the times of use of the access for construction traffic;*

The approved CMP shall be adhered to throughout the construction of the development.

Reason: *In the interests of highway safety and residential amenity and to accord with Policies LP21 and LP24 of the Kirklees Local Plan. This is a pre-commencement condition so that such matters are addressed at an appropriate stage of the development process*

The submitted details have been reviewed by K.C. Highways, K.C. Environmental Health, and Planning Officers.

K.C. Environmental Health consider the elements pertinent to them are acceptable.

K.C. Highways have stated that insufficient details on cleaning the highway of mud / debris have been provided and that the times of access to the site should be amended to not conflict with peak traffic (0800 – 0900 and 1700 – 1800). Officers share these concerns and do not consider the information to address all requirements of condition 8.

Officers are therefore unable to support approval of the details currently.

Condition 10 (electric vehicle charging)

10. A scheme for the provision of electric vehicle recharging points shall be submitted to and approved in writing by the Local Planning Authority before works to construct the superstructure of the retail unit commence. The electric vehicle recharging points shall be provided in accordance with the approved details before the development is first brought into use and shall thereafter be retained.

Reason: *To mitigate the impact of the development on air quality and to accord with Policy LP24 of the Kirklees Local Plan, guidance in the National Planning Policy Framework and the West Yorkshire Low Emissions Strategy*

The submitted details have been reviewed by and found to be acceptable by K.C. Environmental Health. Officers support this assessment and recommend the details be approved. The condition does, however, include an ongoing requirement that must be adhered to, and prevents full discharge at this time.

Condition 11 (Phase II report)

11. Groundworks shall not commence until a Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the Local Planning Authority.

***Reason:** To identify unacceptable risks to human health and the environment arising from potential contamination. This is to accord with Policy LP53 of the Local Plan and guidance given in the National Planning Policy Framework. This is a pre-commencement condition to ensure that such matters are identified at an appropriate stage.*

The submitted details have been reviewed by K.C. Environmental Health. In summary they raise concerns and do not support acceptance of the submission. This is detailed in their consultation response dated 16/10/2023. Planning officers support this assessment and advise that the details not be approved at this time.

Condition 16 (Air Quality Impact Assessment)

16. A Full Air Quality Impact Assessment shall be submitted to and approved in writing by the Local Planning Authority before development commences. The Air Quality Impact Assessment shall be prepared in accordance with the 'Air Quality and Emissions Technical Planning Guidance' (part of the West Yorkshire Low Emissions Strategy). The mitigation measures as detailed in the Full Air Quality Impact Assessment so approved shall be provided before the development is first brought into use and retained as such.

***Reason:** To mitigate the impact of the development on air quality and to accord with Policies LP24 and LP53 of the Kirklees Local Plan, guidance in the National Planning Policy Framework and the West Yorkshire Low Emissions Strategy.*

The submitted details have been reviewed by and found to be acceptable by K.C. Environmental Health. Officers support this assessment and recommend the details be approved. The condition does, however, include an ongoing requirement that must be adhered to, and prevents full discharge at this time.

Condition 18 (temporary drainage), Condition 20 (surface water drainage), and Condition 22 (hardstanding drainage)

18. A scheme detailing temporary surface water drainage for the construction phase (after soil and vegetation strip) shall be submitted to and approved in writing by the Local Planning Authority before development commences. The scheme shall detail:

- phasing of the development and phasing of temporary drainage provision;*
- include methods of preventing silt, debris and contaminants entering existing drainage systems and watercourses and how flooding of adjacent land is prevented.*

The temporary works shall be implemented in accordance with the approved scheme and phasing. No phase of the development shall be commenced until the temporary works approved for that phase have been completed. The approved temporary drainage scheme shall be retained until the approved permanent surface water drainage system is in place and functioning in accordance with written notification to the Local Planning Authority.

Reason: *To ensure the provision of adequate and sustainable systems of drainage in the interests of amenity and environmental well-being and to accord with Policies LP27 and LP28 of the Kirklees Local Plan and guidance in the National Planning Policy Framework. This is a pre-commencement condition to ensure that such matters are addressed at an appropriate stage of the development.*

20. Development shall not commence until a scheme restricting the rate of surface water discharge from the site to a maximum of 8.1 litres per second has been submitted to and approved in writing by Local Planning Authority. The drainage scheme shall be designed to attenuate flows generated by the critical 1 in 30 year storm event as a minimum requirement. Flows between the critical 1 in 30 or critical 1 in 100 year storm events +30% allowance for climate change shall be stored on site in areas to be approved in writing by the Local Planning Authority, unless it can be demonstrated to the satisfaction of the Local Planning Authority that discharge from site does not cause an increased risk in flooding elsewhere. The scheme shall include a detailed maintenance and management regime for the storage facility including the flow restriction. There shall be no piped discharge of surface water from the development and no part of the development shall be brought into use until the flow restriction and attenuation works comprising the approved scheme have been completed. The approved maintenance and management scheme shall be implemented thereafter.

Reason: *To ensure the provision of adequate and sustainable systems of drainage in the interests of amenity and environmental well-being and to accord with Policy LP28 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.*

22. Development shall not commence until a scheme detailing the treatment of all surface water flows from parking areas and hardstandings through an oil interceptor, (or a full petrol oil interceptor) reedbed or alternative treatment system has been submitted to and approved in writing by the Local Planning Authority. Use of the parking areas/hardstandings shall not commence until the works comprising the approved treatment scheme have been completed. Treatment shall take place prior to discharge from the treatment scheme. Roof water shall not pass through the interceptor. The treatment scheme shall be retained and maintained to ensure efficient working at all times.

Reason: *To ensure the provision of adequate and sustainable systems of drainage are employed to protect the aquatic environment and to accord with Policies LP27 and LP30 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.*

Each of the above conditions were requested by the Lead Local Flood Authority (LLFA). The LLFA have reviewed the submitted details and consider them to be acceptable for the initial purpose of each condition.

Each of the conditions have a further requirement preventing full discharge of the condition at this time. A note to this effect may be placed on the decision notice.

Condition 27 (external lighting)

27. Details of the external lighting for the development shall be submitted to and approved in writing by the Local Planning Authority before the development is first brought into use. The scheme shall include the following information:

- a) The proposed hours of operation of the lighting;*
- b) The location and specification of all of the luminaires;*
- c) The proposed design level of maintained average horizontal illuminance for the areas that needs to be illuminated;*
- d) The predicted vertical illuminance that will be caused by the proposed lighting when measured at windows of any properties in the vicinity;*
- e) The measures that will be taken to minimise or eliminate glare and stray light arising from the use of the lighting that is caused beyond the boundary of the site;*
- f) The methods of switching and controlling the lighting so that it is only operated at the permitted times and at times when it is required.*

The external artificial lighting shall be installed and operated in accordance with the approved details and retained as such.

Reason: *In the interests of residential amenity and to accord with Policy LP24 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.*

The submitted details have been reviewed by and found to be acceptable by K.C. Environmental Health. Officers support this assessment and recommend the details be approved. The condition does, however, include a further requirement that must be adhered to, and prevents full discharge at this time.

Summary

The submitted details for the following conditions are acceptable:

- 10 (electric vehicle charging)

- 16 (Air Quality Impact Assessment)
- 18 (temporary drainage)
- 20 (surface water drainage)
- 22 (hardstanding drainage)
- 27 (external lighting)

Each of these conditions have further requirements which prevent full discharge at this stage. This will be noted to the applicant.

The details submitted for the following conditions are unacceptable and cannot be supported at this time:

- 6 (right-turn lane)
- 8 (Construction Management Plan)
- 11 (Phase II report)

In the interest of working proactively with the applicant, a period of four weeks will be offered for further information to be provided under this application. Following this period, a new Discharge of Conditions application will be needed.

Recommendation: Issue split decision, with additional time of four weeks for further details to be provided.

Report Dated: 16/10/2023

Proposed Letter Text

Condition 6 (right-turn lane)

You have submitted the following plans pursuant to condition 6:

- AMA/40110/D/001 Rev. I
- AMA/40110/D/002 Rev. B
- AMA/40110/D/004 Rev. A
- AMA/40110/D/005 Rev. A
- AMA/40110/D/006 Rev. B
- AMA/40110/D/007 Rev. B
- AMA/40110/D/100
- AMA/40110/TRO/001
- AMA/40110/TRO/002

The submitted details are not accepted. It is understood that negotiations are continuing between your team and K.C. Highways (Section 278 team), with various concerns raised and outstanding. The current proposal would not secure the safe and effective use of the highway. Negotiations should continue to resolve any outstanding matters.

For the avoidance of doubt condition 6 is not hereby discharged.

Condition 8 (Construction Management Plan)

You have submitted the document Construction Phase Health and Safety Plan by Forge, dated June 2023, revision 1 pursuant to condition 8. The submitted details are not acceptable, with the following concerns raised:

- No details of 'A scheme to demonstrate how the highway will be kept clear of mud/debris', as required by the condition, have been provided.
- The proposed times of use of the access for construction traffic are 07:00 – 18:00 Monday to Friday, 08:00 – 14:00 on Saturdays, and at no time on Sundays or Bank Holidays. Due to the busy nature of Huddersfield Road (A644) the access hours should exclude the morning (0800 – 0900) and evening peaks (1700 – 1800).

For the avoidance of doubt condition 8 is not hereby discharged.

Condition 10 (electric vehicle charging)

You have submitted the following documents pursuant to condition 10:

- Electrical Engineering Services External Lighting drawing by Wilson Gray Consulting
- Standard Store Specification File: Section 10.7 Electric Vehicle (EV) Charging
- Charging Point Overview Sheet: Newmotion Business Pro 2.1 and Business Lite 2.1

These documents show the proposed location of four Electric Vehicle Charging Points that provide up to 22kW of power via a Type 2 EV socket.

These details are acceptable for the initial requirement of condition 10. However, be aware that condition 10 has the following further requirement:

The electric vehicle recharging points shall be provided in accordance with the approved details before the development is first brought into use and shall thereafter be retained.

Adherence to this requirement is necessary to ensure compliance with condition 10.

Condition 11 (Phase II report)

A Geo-Environmental Report by DTS Raeburn Limited (ref: E13431/1) has been submitted pursuant to condition 11.

It is concluded that remediation is necessary at the site. The submitted report suggests the placement of a minimum of 500mm capping material above any

soft landscaping and gas protection measures. Clarification on several points is, however, required:

- A revised conceptual site model and risk assessment is needed, as this appears to be missing from the report, contrary to LCRM guidance.
- Part of the appended information is missing from the report. Officers therefore cannot confirm the validity of the report contents. All missing appended information must be included, and this should include ground gas data sheets.
- The ground gas monitoring undertaken does not appear to include low pressure (<1000mb) and no pressure trend information has been reported.

For further details please see the comments of K.C. Environmental Health dated 16/10/2023.

For the avoidance of doubt condition 11 is not hereby discharged.

Condition 16 (Air Quality Impact Assessment)

The Air Quality Assessment ref: (7023r1) (dated: 21/08/2023) by Redmore Environmental has been submitted pursuant to condition 16.

The submitted details are acceptable for the initial requirement of condition 16. However, be aware that condition 16 has the following further requirement:

The mitigation measures as detailed in the Full Air Quality Impact Assessment so approved shall be provided before the development is first brought into use and retained as such.

Adherence to this requirement is necessary to ensure compliance with condition 16.

Condition 18 (temporary drainage)

You have submitted the following documents pursuant to condition 18:

- Plan ref. SL_90_40_46-0003 Rev. P01 (Temporary Drainage Plan)
- Document ref. P19-111/LTR/0001/JM (Temporary Surface Water Drainage Plan)

The submitted details are acceptable for the initial purpose of condition 18. However, be aware that condition 18 has the following further requirement which must be adhered to, to ensure compliance with the condition:

The temporary works shall be implemented in accordance with the approved scheme and phasing. No phase of the development shall be commenced until the temporary works approved for that phase have been completed. The approved temporary drainage scheme shall be retained until the approved permanent surface water drainage system is

in place and functioning in accordance with written notification to the Local Planning Authority.

Condition 20 (surface water drainage)

You have submitted the following documents pursuant to condition 20:

- Plan ref. SS_50_35_82-0001 Rev. P03 (Proposed Drainage Layout)
- Plan ref. SS_50_70_05-0001 Rev. P01 (Typical Attenuation Tank Details)
- Document ref. 220615 P1.MDX (Hydraulic Calculations)
- Document ref. P19-111/3.14/JM Rev. A (General Maintenance and Inspection Recommendations)

The submitted details are acceptable for the initial purpose of condition 20. However, be aware that condition 20 has the following further requirement which must be adhered to, to ensure compliance with the condition:

There shall be no piped discharge of surface water from the development and no part of the development shall be brought into use until the flow restriction and attenuation works comprising the approved scheme have been completed. The approved maintenance and management scheme shall be implemented thereafter.

Condition 22 (hardstanding drainage)

You have submitted the plan referenced SS_50_35_82-0001 rev. P01 pursuant to condition 22. This includes the installation of the Condor Bypass CNBS10s/21 oil separator (or similar) as detailed on the drawing.

The submitted details are acceptable for the initial purpose of condition 22. However, be aware that condition 22 has the following further requirement which must be adhered to, to ensure compliance with the condition:

Use of the parking areas/hardstandings shall not commence until the works comprising the approved treatment scheme have been completed. Treatment shall take place prior to discharge from the treatment scheme. Roof water shall not pass through the interceptor. The treatment scheme shall be retained and maintained to ensure efficient working at all times.

Condition 27 (external lighting)

You have submitted the Electrical Engineering Services External Lighting drawing (ref: 79-E0000 Revision P03) by Wilson Gray Consulting pursuant to condition 27.

The submitted details are acceptable for the initial requirement of condition 27. However, be aware that condition 27 has the following further requirement:

The external artificial lighting shall be installed and operated in accordance with the approved details and retained as such.

Adherence to the above requirement is necessary to ensure compliance with condition 27.

Submission of further details

Further details are required to discharge conditions 6, 8, and 11. If the requested details are provided within four weeks of the date of this letter, they will be accepted under this application. Please quote 2023/92061 and send the details directly to nick.hirst@kirklees.gov.uk.

After four weeks, a new Discharge of Condition application will be required.