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:	**2023/44/92115/E**
Site Address:	Land Adjacent, 205, Leeds Road, Huddersfield, HD1 6NJ
Description:	Discharge conditions 3 (drainage), 4 (dilapidation survey), 5 (alterations and repairs to retaining structures), 7 (Ecological Design Strategy), 9 (external lighting) on previous permssion 2020/92499 for erection of drive through food retail unit with associated works
Recommending Officer:	Lucy Taylor

DECISION – DISCHARGE OF CONDITIONS – SPLIT DECISION

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

John Holmes

AUTHORISED OFFICER

Date: 28-Sep-2023

Officer Report – Discharge of Conditions Application

Land Adjacent, 205, Leeds Road, Huddersfield, HD1 6NJ.

The application seeks to discharge conditions 3 (drainage), 4 (dilapidation survey), 5 (alterations and repairs to retaining structures), 7 (Ecological Design Strategy), 9 (external lighting) on previous permission 2020/92499 for erection of drive through food retail unit with associated works.

Condition 3: Drainage

Development shall not commence until, a scheme detailing foul, surface water and land drainage, (including off site works, outfalls, balancing works, plans and longitudinal sections, hydraulic calculations, existing drainage – to include culverts and weirs - to be maintained/diverted/abandoned, and percolation tests, where appropriate) has been submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until such approved drainage scheme has been provided on the site to serve the development and thereafter retained.
***Reason:** To ensure the provision of adequate and sustainable systems of drainage in the interests of amenity, environmental well-being, in the interests of the protection of the adjacent Huddersfield Broad Canal, and to accord with Policies LP27, LP28 and LP34 of the Kirklees Local Plan and the National Planning Policy Framework. This is a pre commencement condition to ensure that appropriate details are provided at an appropriate stage of the development.*

Assessment

The supporting information submitted by the applicant, including:

- Proposed Drainage Plan (Dwg No. D01 revP01)
- Typical Drainage Details plan (Dwg No. D02)
- S106 Plan (Dwg No. D03)

The condition is regarding the feasibly for surface water drainage at the site for the proposed building and car park, requesting the information within condition 3 to demonstrate that a workable scheme could be devised.

Policy LP27 of the Kirklees Local Plan refers specifically to flood risk. The application site is predominantly located within Flood Zone 3 and therefore, the development needs to be considered with regard to this policy in the Local Plan. In addition to it's location within Flood Zone 3, a culverted watercourse known as Grimscar Dyke runs across the site, connecting with the canal to the north.

Policy LP28 of the Kirklees Local Plan refers specifically to drainage. This policy sets out that *'Development will only be permitted if it can be demonstrated that the water supply and waste water infrastructure required is*

available or can be co-ordinated to meet the demand generated by the new development'.

Policy LP34 of the Kirklees Local Plan is aimed at conserving and enhancing the water environment. The effective management and disposal of surface water plays a role in reducing the risk of flood, as well as ensuring that excessive strain is not placed upon existing infrastructure.

Consultation has been undertaken with the Lead Local Flood Authority. The Lead Local Flood Authority have set out that condition 3 should not be discharged until the following information has been submitted and approved by them:

- Hydraulic calculations to indicate that the critical 1 in100 rainfall event (plus 30% climate change) can be contained within the development without any flooding off-site or to buildings within the site.
- Exceedance flood routing in the event of blockage or rainfall greater than the critical 1 in100 event.
- A Maintenance Plan including a schedule indicating the proposed frequency of maintenance of the drainage system within the site (attenuation tank, hydrobrake, gullies, etc.).
- A longitudinal section through the 150mm dia drainage pipes that cross over the existing culvert indicating the clearance between the top of the culvert structure and the underside of the pipework.
- Calculations to confirm that the proposed GeoLight tank will be sufficient in its vertical strength to support the heaviest vehicle that could run over it.
- Access arrangements for the geocell tank to allow safe inspection and cleaning of the inside of the tank.
- Details of how the outlet from the Flow Control Chamber will connect to the existing culvert without compromising the integrity of the culvert.

Therefore, based on the information as submitted as part of this application, condition 3 of application 2020/92499 cannot be discharged.

Condition 4: Dilapidation Survey

Development shall not commence until a dilapidation survey of all temporary and permanent highway retaining structures within the site and off-site (including Learoyd Bridge over the canal on Hillhouse Lane including the steps, all retaining walls retaining or adjacent to the highway, culvert under the site) has been completed by a competent person and details of this survey submitted to and approved in writing by the Local Planning Authority.
The dilapidation survey shall be repeated (2nd survey) by a competent person on the completion of the development and before the development is first brought into use. Details of this 2nd survey shall be submitted to and approved in writing by the Local Planning Authority.
***Reason:** In the interests of highway and public safety and the protection of the canal and surrounding highway structures. This is a pre-commencement condition to ensure that the development does not adversely affect existing*

retaining structures, does not compromise the safety of all those using the site, adjacent roads, canal and existing highway network, in accordance with the requirements of Policies LP21 and LP53 of the Kirklees Local and guidance in the National Planning Policy Framework.

Assessment
The supporting information submitted by the application, including:

- Report 21-856 – Relating to retaining walls produced by Holdgate Consulting

This condition was imposed as part of the determination of application 2020/92499 to protect the boundary walls at the site, which provide a structural supporting function, from becoming damaged during construction which would then result in unstable land.

Policy LP21 of the Kirklees Local Plan refers to highways and access. It sets out that proposals need to demonstrate adequate information and mitigation measures, to avoid detrimental impacts to highway safety and the local highway network.

Policy LP53 of the Kirklees Local Plan refers to contaminated and unstable land.

Consultation has been undertaken with the Council's Highways Structures Officer. The Highways Structures Officer concluded that condition 4 can be partially discharged as part of this discharge of conditions application, subject to a post completion structural survey of the same private retaining walls. This post completion survey should identify any defects arising in these walls due to the works associated with the proposed development and their subsequent rectification at the developer's expense.

It is therefore recommended that this condition be discharged insofar as it relates to requirement for an initial dilapidation survey to be submitted.

Condition 5: Alterations and Repairs to Retaining Structures

Development shall not commence until detailed cross sectional information, and design and construction details of proposed alterations or repairs to the retaining structures referred to and assessed as part of the dilapidation surveys secured by condition 4 (including interface with the culvert at the proposed site entrance off Leeds Road) have been submitted to and approved in writing by the Local Planning Authority. The details shall include a design statement to include:
• all necessary ground investigations on which design assumptions are based,
• method statements for both temporary and permanent works and removal of any bulk excavations,
• a full slope stability analysis together with structural calculations, and

• all associateed safety measures for the protection of adjacent public highways, footpaths and areas of public access.
All alterations and repairs to highway retaining structures, including the interface with the culvert at the proposed site entrance off Leeds Road, shall be designed and constructed in accordance with the approved details prior to the use hereby approved becoming first operational, certified as complete in writing to the Local Planning Authority and shall be so retained thereafter.
***Reason:** In the interests of highway safety and the protection of the Huddersfield Broad Canal and surrounding highway structures. This is a pre-commencement condition to ensure that new/repaired/altered retaining structures do not compromise the safety of all those using the site, adjacent roads, canal and existing highway network, in accordance with the requirements of Policies LP21and LP53 of the Kirklees Local and guidance in the National Planning Policy Framework.*

Assessment

The supporting information submitted by the applicant, including:

- Levels Plan (Dwg No. EW01 Rev P15)
- Hard Surfacing Plan (Dwg No. EW02 RevP14)
- S278 Agreement Plan (Dwg No. EW03 Rev P09)
- S278 General Arrangements Plan (Dwg No. EW04 RevP08)

This condition was imposed in the interests of highway safety and to protect the Huddersfield Broad Canal and surrounding highway structures. It's aim as a pre-commencement condition sought to ensure that new/repaired/altered structures would not compromise the safety of users of the site, adjacent roads, canal and existing highway network in accordance with the aims of Policies LP21 and LP53 of the Kirklees Local Plan.

Consultation with the Council's Highways Structures Officer confirmed that they consider the submitted details would not be considered satisfactory to discharge condition 5 of application 2020/92499. This is because the scheme is pending the satisfactory completion of technical approval process (via submission of an AIP) for design of proposed highway burr wall supporting Hillhouse Lane at this site.

It is recommended that, in light of the response of the Highways Structures Officer, this condition is not discharged.

Condition 7: Ecological Design Strategy

Before the hereby approved development is brought into use an ecological design strategy (EDS) addressing mitigation and enhancement shall be submitted to and approved in writing by the Local Planning Authority. The EDS shall include the following.
a) Purpose and conservation objectives for the proposed ecological works.

b) Location (shown on appropriate scale plans) of specific make and model, or design, of habitat boxes, such as bat boxes, bird boxes and hedgehog refuges. Habitat boxes to be integral to new structures where appropriate.
c) Details of how the design of boundary treatments will not obstruct the movement of hedgehogs.
d) Planting schedule and planting plan showing the inclusion of native species of tree and shrub to be included within/at the boundary of the application area, and how this achieves the stated purpose.
e) Timetable for the implementation of measures set out in the strategy
f) Details of maintenance.
The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.
***Reason:** to ensure the development hereby permitted provides ecological enhancement measures sufficient to provide a biodiversity net gain in accordance with Policy LP30 of the Kirklees Local Plan.*

Assessment

The supporting information submitted by the applicant, including:

- Ecological Design Strategy ref: 220416/EDS.

This condition was imposed to ensure that development would provide ecological enhancement measures that would be sufficient to provide a biodiversity net gain. This was to ensure accordance with Policy LP30 of the Kirklees Local Plan, which sets out that *'The Council will seek to protect and enhance the biodiversity and geodiversity of Kirklees…'.*

Upon consultation with the Council's Ecology Officer, it was concluded that the submitted Ecological Design Strategy provides sufficient detail to ensure that there will be a net gain in protected species provision sat the site. As such, the Council's Ecology Officer supports the discharge of condition 7.

It is therefore concluded that the submitted scheme is acceptable and condition no.7 can be discharged on the basis of the submitted detail.

Condition 9: External Lighting
Prior to the installation of any external artificial lighting at the site outlined in red on drawing number 2016018-(LP)01, a scheme of details which shall include measures to be taken for the control of any glare or stray light arising from the operation of artificial lighting, and a "lighting design strategy for biodiversity" shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following information:-

1) *The proposed design level of maintained average horizontal and vertical illuminance for the site.*
2) *The proposals to minimise or eliminate glare from the use of the lighting installation.*
3) *Mitigation measures to prevent light pollution affecting local ecology using the Kirklees Wildlife Habitat Network (KWHN) to the west of the application site.*

All external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme/strategy, and these shall be maintained and retained thereafter in accordance with the approved scheme/strategy. No external lighting, other than that approved by this condition, shall be installed ***Reason:*** *To ensure that habitats within and adjacent to the application site, including the Kirklees Wildlife Habitat Network, remain suitable for local ecology. This is in order to accord with Policies LP24 and LP52 of the Kirklees Local Plan and the requirements of the Chapter 15 of the National Planning Policy Framework.*

Assessment

The supporting information submitted by the applicant, including:

- Exterior Flood Lighting Plan (Design Ref: LS25863)
- Road Lighting, S-LUM AL61000
- Car Park & Amenity Lighting, VETTA AL22000

This condition was imposed to ensure that external artificial lighting would not detrimentally impact upon habitats within and adjacent to the application site, in accordance with policies LP24 and LP52 of the Kirklees Local Plan and the requirements of Chapter 15 of the National Planning Policy Framework.

Informal consultation with the Council's Ecology Officer confirmed that the proposed lighting scheme would have minimal impacts on ecological receptors and therefore, subject to the implementation of the lighting scheme throughout the operational phase of development, the Ecology Officer would support the discharge of condition 9.

Having regard to the submitted scheme and response of the Ecology Team it is considered the submitted scheme is acceptable to enable the discharge of condition no.9.

Decision Notice Text

I refer to your above referenced discharged of conditions application and can confirm the following: -

Condition 3: Drainage

You have submitted the following information:

- Proposed Drainage Plan (Dwg No. D01 revP01)
- Typical Drainage Details plan (Dwg No. D02)
- S106 Plan (Dwg No. D03)

On the basis of the submitted details condition no.3 cannot be discharged as further information needs to be submitted for the works and approved in writing by them. Therefore, it is advised that the further details, as outlined within the consultation response from the Lead Local Flood Authority, be submitted.

Therefore, based on the information submitted as part of this application, the Local Planning Authority are unable to discharge condition 3 of planning application number 2020/92499. The following information is required to be submitted to enable the further consideration of this condition:

- Hydraulic calculations to indicate that the critical 1 in100 rainfall event (plus 30% climate change) can be contained within the development without any flooding off-site or to buildings within the site.
- Exceedance flood routing in the event of blockage or rainfall greater than the critical 1 in100 event.
- A Maintenance Plan including a schedule indicating the proposed frequency of maintenance of the drainage system within the site (attenuation tank, hydrobrake, gullies, etc.).

- A longitudinal section through the 150mm dia drainage pipes that cross over the existing culvert indicating the clearance between the top of the culvert structure and the underside of the pipework.
- Calculations to confirm that the proposed GeoLight tank will be sufficient in its vertical strength to support the heaviest vehicle that could run over it.
- Access arrangements for the geocell tank to allow safe inspection and cleaning of the inside of the tank.
- Details of how the outlet from the Flow Control Chamber will connect to the existing culvert without compromising the integrity of the culvert.

Should the further information be submitted within 21 days of the date of this letter the LPA would further consider the scheme submitted to address this condition under this submission.

Condition no.3 is therefore not discharged.

Condition 4: Dilapidation Survey

You have submitted the following information:

- Report 21-856 – Relating to retaining walls produced by Holdgate Consulting

The details submitted are considered acceptable to partially discharge condition 4, subject to a post completion structural survey of the same private retaining walls been submitted to the Local Planning Authority. This post completion survey should identify any defects arising in these walls due to the works associated with the proposed development and their subsequent rectification at the developer's expense.

This condition is discharged insofar as it relates to the requirement for an initial dilapidation survey to be submitted. The dilapidation survey shall be repeated (2nd survey) by a competent person on the completion of the development and before the development is first brought into use. Details of this 2nd survey shall be submitted to and approved in writing by the Local Planning Authority.

Condition no.5 is therefore part discharged

Condition 5: Alterations and Repairs to Retaining Structures

You have submitted the following information:

- Levels Plan (Dwg No. EW01 Rev P15)
- Hard Surfacing Plan (Dwg No. EW02 RevP14)
- S278 Agreement Plan (Dwg No. EW03 Rev P09)
- S278 General Arrangements Plan (Dwg No. EW04 RevP08)

The Council's Highways Structures Officer cites within their formal consultation response that planning condition 5 pertaining to the alterations and repairs of highway retaining structures can not be discharged as aspects of the proposed works require technical approval through the submission of an AIP. Specifically, the scheme is pending the satisfactory completion of AIP for design of proposed highway burr wall supporting Hillhouse Lane at this site.

As the Approval in Principle may affect the detailed design required under Technical Approval process, it is advised the AIP details are sought in the first instance and further details submitted.

Condition no.5 is therefore not discharged.

Condition 7: Ecological Design Strategy

You have submitted the following information:

- Ecological Design Strategy ref: 220416/EDS

The details submitted are accepted to provide appropriate details of ecological mitigation and enhancement, in accordance with the requirements of condition 7.

Therefore, provided the approved details are completed in full before development commences and thereafter retained, condition 7 will be satisfied.

Condition 9: External Lighting

You have submitted the following information:

- Exterior Flood Lighting Plan (Design Ref: LS25863)
- Road Lighting, S-LUM AL61000
- Car Park & Amenity Lighting, VETTA AL22000

The details submitted are accepted to provide appropriate details of external lighting, in accordance with the requirements of condition 9.

Therefore, provided that the approved details are implemented in accordance with the submitted details and retained thereafter, condition 9 will be satisfied.