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:	**2023/62/92597/W**
Site Address:	John Shaw And Son Ltd, Canker Lane Garage, Leeds Road, Huddersfield, HD2 1XT
Description:	Change of use from B2 to Class E, Conversion of existing car garage to retail unit
Recommending Officer:	Lucy Taylor

DECISION – CONDITIONAL FULL PERMISSION

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.

John Holmes

AUTHORISED OFFICER

Date: 24th April 2024

Officer Report.

Reference: 2023/92597

Location: John Shaw And Son Ltd, Canker Lane Garage, Leeds Road, Huddersfield, HD2 1XT

Proposal: Change of use from B2 to Class E, conversion of existing car garage to retail unit

Site Description.

John Shaw and Son Ltd was formally used as a commercial vehicle garage but the site is not currently trading.

It is located on the corner of Leeds Road and Red Doles Road, Huddersfield. The main structures are set back from the road, fronting Leeds Road to the southern elevation of the site. The main structures have stone frontages, brick walls to the side and rear and a corrugated metal roof. There are 3 no. redundant petrol pumps and sub-ground fuel tanks.

The site has a surrounding car park which is accessible from both Leeds Road and Red Doles Lane. Both entrances are secured by raising metal barriers. There is no demarcated vehicle parking spaces or bike parking spaces on the site. There are 2 no. dopped kerbs on to the site from Leeds Road.

Leeds Road is defined by a mix of uses, including terraced residential housing, retail parks and a mix of light industrial units.

Description of Proposal.

Planning permission is sought for the change of use from B2 to Class E, conversion of existing car garage to retail unit.

The site was last in use as a commercial vehicle garage under Class B2. The site is not currently trading. The site is to be used for the display and sale of beds and mattresses under Use Class E.

The changes proposed regarding the external aesthetic of the building include:

- Professionally spraying of the existing corrugated metal roof which currently is in a poor condition.
- Repainting of existing timber cladding adjacent to billboard sign.
- New aluminium framed entrance screen with an existing opening.

The area to the front of the building is to be kept free of parking and control of vehicles on and off the site will be via the existing rear gate from Red Doles

Lane. 8 no. demarcated parking spaces and 1 no. disabled bay will be provided for the site. Bike hoops will be provided for 6 no. bicycles.

The 3 no. fuel pumps on the site are to be removed.

Whilst officer's note that the plans show alterations to the building with regards to advertisement / signage, this will not be dealt with under the determination of this planning application, as separate Advertisement Consent would be required for such developments.

History of Negotiations / Amendments Received.

Following a consultation response from KC Environmental Health, an updated Design and Access Statement was submitted.

Following a consultation response from KC Policy, the planning agent / applicant submitted a sequential test.

The agent has provided agreement via email to the inclusion of the pre-commencement conditions as imposed within the Environmental Health consultation response.

Relevant Planning History.

- 90/01570 – Erection of petrol station and associated services. *Refused.*
- 92/05154 – Demolition of 411 & 413 Leeds Road and outline application for erection of petrol filling station and car wash. *Refused.*
- 96/93318 – Erection of illuminated hoarding. *Advertisement Consent Refused.*
- 98/92248 – Change of use from vehicle sales, servicing and petrol sales to Class A1 retail. *Withdrawn.*
- 2002/92198 – Erection of extension to garage and change of use from dwelling to office use with sales forecourt. *Refused.*
- 2002/94406 – Erection of extension to garage and change of use from dwelling to office use with sales forecourt. *Granted Conditional Full Permission.*
- 2023/92808 – Advertisement Consent for erection of illuminated signs. *Advertisement Consent Granted.*

Representations.

This application was advertised via neighbour notification letters, which expired on 28th November 2023.

No representations were received.

Whilst officer's note byway HUD/56/10, which runs along Red Doles Lane to the west of the application site, it was not considered necessary in this instance to advertise the application via a site notice or within the press as effecting this designated Byway. This is because the Byway runs along the existing highway of Red Doles Lane, with all alterations to be contained within the confines of the site itself. Upon any grant of approval, informatives can be included to avoid obstruction of the Byway before, during and after development.

Consultation Responses.

KC Policy – The applicant would be required to undertake a search for suitable and available units within the centres detailed within the consultation response, taking into account flexibility in format and scale, and provide an appropriate audit trail of any sequentially preferable sites that have been discounted with a robust justification in order to satisfy Policy LP13.

Following this consultation response from KC Policy, the planning agent / applicant submitted a sequential test on 1st January 2024. This sequential test was considered to satisfy Policy LP13. This is discussed in greater depth in the assessment section of this report.

KC Highways Development Management – Consider the application to be acceptable with the inclusion of a condition regarding details of bin storage, bin presentation points and access for collection of wastes from the premises prior to the development opening for business.

KC Lead Local Flood Authority – Support this application and do not recommend any drainage conditions.

Health and Safety Executive – Does not advise, on safety grounds, against the granting of planning permission in this case.

KC Environmental Health – No objection subject to conditions

Contaminated Land: The site of the proposed development has been identified as being on land that is potentially contaminated due to its former use (our site ref:49/10) and being close to former landfill (our site ref:45/10). Due to contradictions in the submitted information and potential contamination at the development site, KC Environmental Health believe that the contaminated land legacy at the site requires full investigation and therefore, recommend conditions be imposed upon any grant of approval.

Hours of Use: The proposed business abuts residential properties, there is some potential for noise from the business and customer movements to cause loss of amenity. KC Environmental Health accept the hours of use proposed and recommend a condition to secure the opening times for

customers in order to limit the loss of amenity by way of noise and disturbance.

Policy.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are 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 located within EA Flood Zone 2.

The site is located within the River Colne Strategic Green Infrastructure Network.

Byway HUD/56/10 runs along Red Doles Lane, west of the application site.

The site is located in an outer hazardous material zone and within a historic landfill 250m buffer zone.

The site is located within an area identified by the Coal Authority as being at low risk of ground movement as a result of former mining activity.

Kirklees Local Plan:

- LP 1 – Presumption in favour of sustainable development
- LP 2 – Place shaping
- LP 3 – Location of new development
- LP 4 – Providing infrastructure
- LP 7 – Efficient and effective use of land and buildings
- LP 13 – Town centre uses
- LP 20 – Sustainable travel
- LP 21 – Highways and access
- LP 22 – Parking
- LP 24 – Design
- LP 25 – Advertisements and shop fronts
- LP 27 – Flood risk
- LP 28 – Drainage
- LP 30 – Biodiversity & Geodiversity
- LP 31 – Strategic Green Infrastructure Network
- LP 51 – Protection and improvement of local air quality
- LP 52 – Protection and improvement of environmental quality

Supplementary Planning Guidance:

- Highways Design Guide SPD
- Waste Management Design Guide for New Developments (Oct 2020, v.5)

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th December 2023, 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 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 6 – Building a strong, competitive economy
- Chapter 7 – Ensuring the vitality of town centres
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed and beautiful places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

Legislation

The Town & Country Planning Act 1990 (as amended).
The Planning and Compulsory Purchase Act 2004.

Assessment.

The following matters are considered in the assessment below: -

1) Principle of development
2) Impact on visual amenity
3) Impact on residential amenity
4) Impact on highway safety
5) Other matters
6) Conclusion

1) Principle of Development

Sustainable Development:

Chapter 2 of the NPPF states that: *"Planning policies and decisions should play an active role in guiding development towards sustainable solutions…"*

Chapter 2 of the NPPF goes onto further state that objectives should: *"support strong, vibrant and healthy communities, providing the supply of housing*

required to meet the needs of present and future generations; and by fostering a well-designed and safe built environment…"

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.

In line with the NPPF, Policy LP1 of the Kirklees Local Plan (KLP) declares that: *"…the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF."*

Policy LP1 goes further and states: *"The council will always work pro-actively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area."*

Policy LP2 sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Policy LP24 of the KLP is relevant and states that *"good design should be at the core of all proposals in the district".*

The dimensions of sustainable development will be considered throughout the assessment of this proposal.

Principle of Town Centre Use:

Chapter 7 of the NPPF relates to ensuring the vitality of town centres.

Paragraph 90 of the NPPF outlies that planning decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.

Paragraph 91 of the NPPF goes on to state that Local Planning Authorities should apply a sequential test to planning application for main town centre uses which are neither in an existing centre nor in accordance with an up-to date plan. Paragraph 91 of the NPPF goes on to state that main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre locations be considered.

Paragraph 92 states that if edge of centre or out of centre proposals are to be considered, preference should be given to accessible sites which are well connected to the town centre.

Policy LP13 of the Kirklees Local Plan is consistent with Government guidance contained within the NPPF stating that within Kirklees, main town centre uses shall be located within defined centres (principal centres, town centres, district centres, and local centres), as shown on the Policies and

Town Centre Maps, and as detailed in the shopping centre hierarchy and then in accordance with the sequential test.

Policy LP13 goes on to note that proposals which come forward for main town centre uses, which are located outside of the defined centre boundaries, will require the submission of a Sequential Test. Policy LP13 states that for retail proposals the boundary shall form the Primary Shopping Area; for all other main town centre uses this shall be the extent of the centre boundary. 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. The NPPF defines edge-of-centre location as being those within 300m from a town centre boundary.

A key aim of Policy LP13 of the Kirklees Local Plan and Chapter 7 of the NPPF is to try and locate such uses in local centres and not outside of them so as to preserve the viability and vitality of these defined centres.

The site is located approximately 1200m walking distance from the nearest town centre, which is Huddersfield Town Centre and 1100m walking distance from the nearest local centre which is Hillhouse Local Centre. The proposed use is for a Class E retail unit which would be used for the display and sale of beds and mattresses. The unit would comprise 430m^2 of retail floorspace with parking to the external area. The proposed retail use is a main town centre use.

A sequential test has been submitted as part of this application, which sets out the applicant's criteria for an available, suitable and viable site from a commerical and operational perspective.

The sequential test defines the key attributes sought for the site and, taking these into account, conducts a search of available existing units within the Huddersfield Town Centre and the District Centres of Lindley, Marsh Milnsbridge, Almondbury and Moldgreen.

The submitted sequential test concludes the following:

- The application seeks to secure change of use to make use of a currently vacant, run-down site to create a viable business that brings employment to the area.
- The nature of the product being sold and the operation of the business is considered inappropriate to be located in Huddersfield Town Centre due to the need for appropriate delivery areas for HGV vehicles.
- The requirement for on site customer parking lends itself to site away form the Principal Town Centre.
- A detailed search reveals there are no appropriate units available in Lindley District Centre, Marsh District Centre, Almondbury District Centre and Moldgreen District Centre.
- The proposed use mirrors existing uses in the immediate area such as those located in Leeds Road Retail Park.

Officers conclude that the submitted sequential test appropriately demonstrates a search of Huddersfield Town Centre and District Centres regarding whether there would be any suitable and available units, taking into account flexibility in format and scale and providing an appropriate audit trail of sequentially preferable sites that have been discounted, accompanied by a robust justification.

As such, it is considered that the proposal would appropriately accord with LP13 of the Kirklees Local Plan and Chapter 7 of the NPPF.

It should be noted that, upon any grant of approval, a condition would be imposed to limit the use of the site to that applied for within Use Class E.

2) **Impact on Visual Amenity**

Chapter 12 of the NPPF discusses good design. Good design is a key aspect of sustainable development, it creates better places in which to live and work and helps to make development acceptable to communities. Local Plan Policies LP1, LP2 and most importantly LP24, are all also relevant. All the policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development in the local area and is visually attractive.

Local Plan Policy LP24 states that all proposals should promote good design by ensuring the following: *'the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape'.*
The proposal includes the following external alterations to the building:

- Professionally spraying of the existing corrugated metal roof which currently is in a poor condition.
- Repainting of existing timber cladding adjacent to billboard sign.
- New aluminium framed entrance screen with an existing opening.

It is considered that the above external alterations would see an overall improvement to the visual amenity of the site, enhancing the external appearance of existing building, which currently sits vacant, with some parts described to be in poor condition within the submitted Design and Access Statement, including the existing corrugated roof which is to be professionally sprayed as part of the development.

Given that the building would remain, in large, as existing, in terms of size/scale and external layout, and that the proposed external alterations would bring about an overall enhancement of the external appearance, it is considered that the proposal would appropriately comply with policy LP24 of the Kirklees Local Plan and Chapter 12 of the NPPF.

Whilst officer's note that the plans show alterations to the building with regards to advertisement / signage, this is not being considered within the

consideration of this application, as such development is controlled by the requirements of the advertisement consent regulations.

However, officer's do note the separate Advertisement Consent application, referenced 2023/92808, which was determined on 21st November 2023, with 'Advertisement Consent Granted'. This referenced application granted consent for an illuminated door surround sign, a fascia-type roundel sign on the gable end of the Leeds Road elevation, an externally illuminated sign on the west elevation facing Red Doles Lane and a stand-alone roadside tote sign at the front.

It does not appear as though the proposed Billboard sign to the western elevation (facing Red Doles Lane) formed part of the aforementioned Advertisement Consent application. As such, separate advertisement consent would be required for this.

3) Impact on Residential Amenity

Paragraph 135 of the National Planning Policy Framework states that Local Planning Authorities should seek to achieve a good standard of amenity for all existing and future occupants of land and buildings. 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'.

The residential property of 411 Leeds Road adjoins the site to the east Given that the building is to remain as existing in terms of size/scale and that the external alterations would retain a similar layout, it is not considered that any changes are proposed to the building which would result in any significant impacts undue overbearing, overshadowing or overlooking.

No other residential properties immediately neighbour the application site. Whilst there is a line of terrace properties to the east of the site, extending beyond No. 411, it is considered that all the other properties in this line of terraces would be a sufficient distance away from any other properties to prevent undue harm to residential amenity in terms of loss of light, loss of privacy or overlooking, or the creation of an overbearing affect.

To the rear of the site is 'Dual Seal Glass', which has a commerical primary classification, an industrial secondary classification and a tertiary factory / manufacturing classification.

To the west of the site, across the highway of Red Doles Lane is 'Ray Chapman Motors' which has a commerical primary classification, an industrial secondary classification and a tertiary workshop / light industrial classification.

To the west, the nearest residential property of No. 389 Leeds Road is located approximately 50 metres from the application site.

Officers again emphasise that advertisements / signage are not dealt with under the determination of this planning application, requiring separate Advertisement Consent.

With regard to noise, given that the proposed business abuts residential properties, there is some potential for noise from the business and customer movements to cause a loss of amenity. As part of the application, the following proposed hours of use are described as:

- Monday to Friday: Start Time: 09:30 End Time 17:30
- Saturday: Start Time: 09:30 End Time: 17:30
- Sunday / Bank Holiday: Start Time 10:00 End Time 16:00

Upon formal consultation, KC Environmental Health confirmed that they accept these opening hours and that they recommend a condition to secure the opening times for customers be included upon any grant of approval to limit the loss of amenity by way of noise and disturbance.

In conclusion, having considered the above, with the inclusion of the aforementioned condition, the development would appropriately accord with the aims of policy LP24 of the Kirklees Local Plan and Chapter 15 of the NPPF.

4) Impact on Highway Safety

Turning to highway safety, Local Plan Policies LP21 and LP22 are relevant and seek to ensure that proposals do not have a detrimental impact to highway safety and provide sufficient parking. Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

As part of the determination of this planning application, a formal consultation was undertaken with KC Highways Development Management. The formal consultation response from KC Highways Development Management made the following comments:

> *'This application is for the change of use from B2 (garage) to E (retail unit) with an amended parking layout at an existing premises and with an access on Red Doles Lane, which is a 30mph two-way single carriageway industrial access cul-de-sac of approximately 10.8m width with footways on both sides and street lighting present. There are No Waiting at any Time TRO markings adjacent to the site with Keep Clear markings across the access road and approximately 30m to the south there is a signalised junction with A62 Leeds Road.*

The closest bus stops to the site are on a high frequency route and are within approximately 185m from the entrance.

The proposed access to the site is from an unadopted road off Red Doles Lane (Access to rear 411 – 493 Leeds Road) and as such we would recommend that the applicant checks with their solicitor that they have vehicular access rights over this road.

The proposals are to change the use of the site from a garage to a retail unit with changes to the access points, reformation of the car parking and removal of the petrol pumps.

No trip generation details were provided with the application, however, given that the previous use as a garage would have generated trips, any additional trips generated by the proposed use are expected to be low and we consider that the impact on the operation or efficiency of the local highway network would not be severe.

There are currently two access points, one from the unadopted Road off Red Doles Land and one directly on to Leeds Road, the proposals are to close off the Leeds Road access and this would improve safety at the signalised junction. The remaining sole access point will be off Red Doles Lane, and this is acceptable for the proposals.

Drawing No A2000P1 shows the location of 7 standard 2.4 x 4.8m parking spaces and 1 accessibility space with some turning/manoeuvring space available. There is also cycle parking provided adjacent to the access. These are acceptable.

No details of waste storage and collection were provided within the application and these details should be conditioned prior to opening.'

Overall, with a condition regarding details of bin storage, presentation points and access for collection of wastes, KC Highways Development Management consider the application to be acceptable on highways grounds.

Having regard to the existing use of the site which can take place in any event and response of the Highways Team, as well as the submitted detail, it is concluded that with the inclusion of the aforementioned condition, it is considered that the proposal would appropriately accord with LP21 and LP22 of the Kirklees Local Plan and Chapters 9 and 12 of the NPPF.

5) Other Matters

Climate Change:

On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to

climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target; however, it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

As part of this planning application a Climate Change statement was submitted, which set out several mitigation measures including:

- Use of photovoltaic panels have been included to reduce the energy demand on the grid.
- All existing external materials are to be reused and redecorated to maintain their lifespan.

Considering the small-scale of the proposed development and that the works involve the change of use of an existing building, it is considered that the proposed development would not have an impact on climate change that needs any further mitigation to address the climate change emergency. The proposed development would therefore comply with Chapter 14 of the NPPF and Policy LP51 of the Kirklees Local Plan.

Flood Zone 2:

LP27 of the Kirklees Local Plan refers to Flood risk.

A Flood Risk Assessment was submitted as part of this application, document ref: KRS.0756.001.R.001, Flood Risk Assessment. Rev A dated October 2023.

As part of the determination of this planning application, a formal consultation was undertaken with KC Lead Local Flood Authority. The formal consultation response from KC Lead Local Flood Authority made the following comments:

The proposed change in use utilises the existing building without any increase in drained area. It is assumed that the existing surface water drainage will be retained and, as there is no increase in flood risk caused by the development, the surface water drainage can discharge to the Yorkshire Water sewer unrestricted and without any attenuation storage requirements.

KC Lead Local Flood Authority confirmed that they support this application and that they have no recommended drainage conditions. However, upon any grant of approval, an informative advisory note would be included providing recommended measures relating to flood risk.

On the basis of the inclusion of the recommended informative note, taking account of the response of the LLFA and the nature of the proposal being for change of use, as well as the fact the use would not be more vulnerable in

terms of being at risk of flooding, it is concluded the proposal would be acceptable taking account of flood risk.

River Colne Strategic Green Infrastructure Network:

Policy LP31 of the Kirklees Local Plan identifies a number of areas which form part of the Strategic Green Infrastructure Network. This policy sets out that priority will be given to safeguarding and enhancing green infrastructure networks, green infrastructure assets and the range of functions they provide. This policy sets out that development should ensure the function and connectivity of green infrastructure is retained / replaced, new or enhances green infrastructure is provided / integrated into new developments. In addition, this policy requires integration of developments into walking / cycling network and providing new links where appropriate and the protection of biodiversity / ecological links. Where the creation of new or enhanced green infrastructure is proposed, provided it does not conflict with other policies within the Kirklees Local Plan policy LP31 sets out that the Council will support such development.

The proposal would not result in the direct removal of any trees or hedgerows and is for the change of use of an existing building.

Therefore, the proposal is not considered to have a significant impact upon the Strategic Green Infrastructure Network and is concluded to be acceptable in this regard.

Byway:

Byway HUD/56/10 runs along Red Doles Lane, west of the application site.

Given that the proposed works are to be retained within the site, it is not considered that the development would prejudice the function, continuity or implementation of Byway HUD/56/10. In turn, it is considered that the proposal would appropriately accord with LP23 of the Kirklees Local Plan.

Upon any grant of approval, an informative would be included within the decision notice to state that: Public Byway HUD/56/10 is adjacent to the development and must not be interfered with or obstructed, prior to, during or after development works.

Contaminated Land:

Policy LP53 of the Kirklees Local Plan and paragraphs 180 and 189 of the National Planning Policy Framework are relevant which seek to ensure that a site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation.

Paragraph 190 of the National Planning Policy Framework states that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rest with the developer and/or landowner.

The site of the proposed development has been identified as being on land that is potentially contaminated due to its former use (our site ref:49/10) and being close to former landfill (our site ref:45/10). As such the Council's Land Quality Team have been consulted regarding the propose development.

Due to contradictions in the submitted information and potential contamination at the
development site, the Council's Land Quality Team conform that they believe the contaminated land legacy at the site requires full investigation and recommend conditions relating to investigation, remediation and verification of the land be included upon any grant of permission.

Health and Safety:

The site is located in an outer hazardous material zone and within a historic landfill 250m buffer zone.

As part of the determination of this planning application, a formal consultation was undertaken with the Health and Safety Executive, where it was concluded that they do not advise, on safety grounds, against the granting of planning permission in this case.

Coal Legacy:

The site is located within the Coal Authority's "Development Low Risk Area". There is no statutory requirement to consult the Coal Authority regarding development within the "Development Low Risk Area", instead an informative note can be appended to the decision notice which constitutes the deemed consultation response. The application site falls within an area at low risk of ground movement as a result of past mining activities as determined by the Coal Authority. As such it is considered that it is unnecessary in this case to require a survey of land stability to be carried out with regard to previous mining activity which may have taken place within the locality. It is recommended that the Coal Authority's standing advice is provided with any grant of approval. As such it is considered that the proposal is acceptable with regard to ground stability in accordance with paragraphs 174 and 183 of the National Planning Policy Framework.

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 would constitute sustainable development and is therefore recommended for approval.

Recommendation: Approve
Decision Authorisation: Delegated Powers
Application Number: 2023/92597
Officer Recommendation: Approve

Conditions and Reasons:

1. The development hereby permitted shall be begun within three years of the date of this permission.
   Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.

2. 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 so as to ensure the satisfactory appearance of the development on completion, and to accord Policies LP1, LP2, LP3, LP4, LP7, LP13, LP20, LP21, LP22, LP24, LP25, LP27, LP28, LP30, LP31, LP51 & LP52 of the Kirklees Local Plan, Principles 1, 2, 3, 4, 5, 6, 7, 8 & 15 of the Council's adopted House Extensions and Alterations SPD and policies within Chapters 2, 4, 6, 7, 8, 9, 11, 12, 14 & 15 of the National Planning Policy Framework.

3. Notwithstanding the provisions of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking or re-enacting that Order) the use of the building as outlined in red on the submitted Location Plan (Dwg Ref: PP-1238569v1) shall be restricted to a retail unit selling beds and mattresses only for the lifetime of the development.
   Reason: For the avoidance of doubt as to what is being permitted and to ensure that the retailing operations undertaken are complimentary to those undertaken in the centre of Huddersfield to protect the vitality and viability of Huddersfield town centre and to accord with policy LP13 of the Kirklees Local Plan as well as the policies contained within Chapter 7 of the National Planning Policy Framework.

4. Before the development is brought into use, details of waste storage, bin presentation points and access arrangements for the collection of wastes from the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be provided before the development is brought into use and shall be so retained thereafter.
   Reason: To ensure a suitable access and layout in the interests of highway safety to accord with policies LP21 and LP22 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

5. The development shall not be brought into use until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.
   Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

6. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition 5 the development shall not be brought into use until a Phase II Intrusive Site Investigation Report by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.
   Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

7. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 6 the development shall not be brought into use until a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.
   Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

8. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 7. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered [in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report] is identified or encountered on site, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall be carried out in accordance with the Remediation Strategy approved by this condition.
   Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

9. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a

Verification Report by a suitably competent person shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the remediation measures have been completed for the site in accordance
with the approved Remediation Strategy or the approved revised Remediation Strategy and a Verification Report in respect of those remediation measures has been approved in writing by the Local Planning Authority.
Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

10. The development hereby permitted shall not take place at any time except between the hours of 09:00 to 17:30 Monday to Saturday and 10:00 to 16:00 Sunday and Bank Holidays
Reason: To ensure that the proposed use(s) does not give rise to the loss of amenity to nearby residential properties, by reason of noise or disturbance at unsociable hours, to accord with the aims of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

NOTE: Contaminated Land

All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2021. Reports must be prepared in accordance with the following guidance:

- Land Contamination Risk Management (LCRM)
- BS 10175:2011+ A2:2017 Investigation of Potentially Contaminated Sites. Code of Practice
- Development on Land Affected by Contamination - Technical Guidance for Developers, Landowners & Consultants - (v11.2) June 2020 by the Yorkshire and Lincolnshire Pollution Advisory Group.
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The conditions relate to Planning Control only. Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information. Any other necessary consent must be obtained from the appropriate authority. If the applicant commences work without discharging conditions, they will be at risk of enforcement action and invalidating the permission if the planning condition is a pre commencement condition.

NOTE: Byway HUD/56/10

Public Byway HUD/56/10 is adjacent to the development and must not be interfered with or obstructed, prior to, during or after development works.

The Council's public rights of way unit may be contacted by telephone 01484 221000 and ask for Sharon Huddleston. Public rights of way is based at Civic

Centre 1, Huddersfield HD1 2NF and the email address is publicrightsofway@kirklees.gov.uk

NOTE: Flooding

Kirklees records indicate that flooding up to 300mm deep is likely on the land surrounding the development during a 1:100 year rainfall event. The LLFA recommends that a **Flood Evacuation Plan** is produced and displayed on the Health and Safety Notice Board within the building, indicating safe escape route/s for staff and visitors to a place of safety in the event of a flood warning. It is noted that the FRA contains a small scale plan noted as Figure 14 (although referred to in the plan title as Figure 8), however a more detailed larger scale plan should be produced and displayed with the Evacuation Plan.

NOTE: No advertisement / signage

Any advertisement / signage has not been dealt with under the determination of this planning application. Separate Advertisement Consent would be required for any advertisement / signage.

Plans and Specifications Schedule: -

Plan Type	Reference	Version	Date Received
Location Plan	PP-12385694v1	-	01.09.23
Existing Site Plan	A1000	-	08.09.23
Existing Plan	A1001	-	08.09.23
Existing Elevations	A1200	-	08.09.23
Proposed Site Plan	A2000	-	08.09.23
Proposed Plan	A2001	-	08.09.23
Proposed Elevations	A2200	-	12.09.23
Design and Access Statement	-	P2	20.11.23
Flood Risk Assessment	KRS.0756.001.R.001	-	17.10.23
Climate Change Statement	-	-	12.09.23
Main Town Centre Use Sequential Test	-	02	01.03.24

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 preapplication advice service available, complied with the Kirklees

Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application.

Following a consultation response from KC Environmental Health, an updated Design and Access Statement was submitted.

Following a consultation response from KC Policy, the planning agent / applicant submitted a sequential test.

The agent has provided agreement via email to the inclusion of the pre-commencement conditions as imposed within the Environmental Health consultation response.

Report Dated: 18.04.24