

**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:	<b>2023/62/93751/W</b>
Site Address:	Land rear of, 225, Lockwood Road, Lockwood, Huddersfield, HD1 3TG
Description:	Erection of one shop unit with associated parking, bin storage area and alterations
Recommending Officer:	Lucy Taylor

**DECISION – REFUSED**

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

John Holmes

***AUTHORISED OFFICER***

**Date:** 22<sup>nd</sup> April 2024

## **Officer Report.**

**Reference:** 2023/93751

**Location:** Land rear of, 225, Lockwood Road, Lockwood, Huddersfield, HD1 3TG

**Proposal:** Erection of one shop unit with associated parking, bin storage area and alterations

## **Site Description.**

The application relates to land to the rear of 225 Lockwood Road, Lockwood. The site is predominately open and operates as a car park for the business to the North West, a Premier Store. Surrounding the site is a mixture of commercial and residential properties, with the predominant construction material being stone. Nonetheless, there are examples of render and cladding within the area. Access to the site is taken from the south eastern boundary onto Albert Street.

The site is situated within Lockwood Local Centre on the Kirklees Local Plan and is also adjacent to a Priority Employment Area.

To the South West at 1- 23 Bridge Street and to the West at 21 and 23 Bridge Street are Grade II listed buildings, and to the north west is the Grade II listed building of Lockwood Baptist Church.

## **Description of Proposal.**

Planning permission is sought for the erection of one shop unit with associated parking, bin storage area and alterations.

The shop unit would have a width of 8.3 metres (front & rear elevations) and a depth of 3.2 metres (side elevations) (3.5 metres including ramp). The maximum height of the unit would be 2.6 metres.

The unit would be a recycled shipping container, with glazing installed to the north east facing front elevation and south east facing side elevation.

Seven parking bays are shown on the submitted plan in a reconfigured arrangement.

A bin store is to be erected in the corner of the car park.

Officers note the negotiations undertaken with the planning agent regarding the use of the proposed unit and that it is to be for a use which would fall within Use Class E of the Town and Country Planning (Use Classes Order) 1987 (as amended). The assessment of this application is undertaken on that basis.

## **History of Negotiations / Amendments Received.**

The case officer entered into negotiation with planning agent to seek clarification regarding the proposed use of the shop unit given discrepancies in the description of the proposed use across the submitted information. These negotiations were undertaken via email.

The case officer did not enter into any further negotiations with the planning agent or applicant. This was due to this application failing to overcome some of the previous reasons for refusal as set out under previous planning application referenced 2022/92290, with it considered that there would be no suitable amendments within the remit of this application which could overcome the identified reasons.

## **Relevant Planning History.**

At the application site:

- 2022/92290 – Siting of repurposed shipping containers to form 2 hot food units and toilet. Refused 23.12.22 for the following reasons:
  1. *The development proposed by virtue of its siting, scale, utilitarian and functional design and materials, would result in an incongruous, undesirable and overprominent form of development that would have a detrimentally harmful impact on the character of the site and the wider context. The proposed development would fail to promote good design, contrary to Policy LP24 (a) of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.*
  2. *The proposed additional 2no. hot food take-away units in Lockwood Local Centre would lead to a substantial concentration and cumulative impact of over 15% of food and drink units in the Local Centre reducing its mix of uses and raising viability and vitality issues for the Local Centre to offer a diversified mix of uses. The proposal would be harmful to the vitality and viability of Lockwood Local Centre and contrary to Policies LP16(a) and LP13 of the Kirklees Local Plan, Chapter 7 of the National Planning Policy Framework and the aims of HFT2 of the Council's Hot Food Takeaway Supplementary Planning Document.*
  3. *It has not been demonstrated that the amenity of nearby neighbouring properties could be protected from odour and noise pollution emanating from the proposed hot food units. Without such information neighbouring properties could be subjected to poor residential amenity and quality of life. On the basis of the submitted application, the proposals are therefore contrary to Policies LP16b, LP24 and LP52 of the Kirklees Local Plan, HFT4 of the Council's Hot Food Takeaway Supplementary Planning Document and Chapters 12 and 15 of the National Planning Policy Framework.*

4. *The proposed development would cause a loss of on-site parking at the application site, whereby no information has been submitted to show that it would not cause conflict with the deliveries to the rear of the existing shop, parking for the taxi business and the private access to the dwellings and businesses known as 215-219 Lockwood Road. As a consequence, this would force additional parking and waiting onto the highway known as Albert Street which would have a detrimental impact on highway safety, contrary to Policies LP16 (d and e), LP21 and LP22 of the Kirklees Local Plan, the Council's adopted Highways Design Guide Supplementary Planning Document, HFT7 the Council's Hot Food Takeaway Supplementary Planning Document and Chapter 9 of the National Planning Policy Framework.*

5. *Due to the number of existing food outlets in this immediate area and reported anti-social behaviour and littering issues, to permit such development would cause detriment to public safety, especially given the late hours of operation. Therefore, the development would be contrary to Policies LP16 (c) and LP24 (e) of the Kirklees Local Plan, and the aims of HFT6 the Council's Hot Food Takeaway Supplementary Planning Document and Chapter 8 of the National Planning Policy Framework.*

6. *It has not been demonstrated that waste storage or facilities for the disposal of customer's litter can be accommodated within the application site such that this can be adequately screened in a manner and location that does not detract from the street scene or the character of the area; or that does not cause odour nuisance to neighbouring occupiers. Furthermore, given the relationship between the proposed hot food units and the wider car park, it has not been demonstrated that it would be possible to site waste storage facilities that would provide access for refuse collection vehicles. Therefore, the application would be harmful to visual and residential amenity and highway safety contrary to Policies LP16 (b, e and f), LP21, LP24 and LP52 of the Kirklees Local Plan and the aims of HFT5 the Council's Hot Food Takeaway Supplementary Planning Document.*

Whether the proposal the subject of this application has overcome these reasons for refusal as part of this submission is discussed in greater depth within the 'Assessment' section of this report.

- 98/93080 – Change of use of land to form secure car sales area and public car park with designated taxi area. *Granted.*
- 94/93973 – Use of part of basement store to existing shop as taxi office for 4 cars. *Granted.*

Neighbouring Properties:

- 2021/94157 – Melbourne Mill - Erection of side and rear extensions. *Granted.*

- 2003/92788 – 215/217/219 Lockwood Road – Change of use from former post office and premises to dental practice. *Granted.*
- 99/90461 – Land Adjacent to 210 Albert Street - Change of use of vacant land/parking area to vehicles storage compound and taxi parking area with construction of perimeter fencing and security lighting tower. *Refuse & Appeal Dismissed.*

### **Representations.**

We are currently undertaking statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. As such, we have publicised this application via neighbour notification letters, which expired on 19 March 2024.

In response to publicity, no representations were received.

### **Consultation Responses.**

Below is a summary of consultee comments, which can be viewed in full on the Council's planning webpage:

**KC Environmental Health:** Concerns are raised by KC Environmental Health regarding the lack of information in relation to odours, which needed to be provided before KC Environmental Health could comment further regarding odours. Also raises concerns regarding noise and drainage.

**KC Highways Development Management:** Raise concerns with the proposal and confirm they do not support the application on the basis they consider there to be a lack of information in relation to parking.

**KC Policy:** Raises concerns that development would result in a harmful overconcentration of Hot Food Takeaways in Lockwood Local Centre and therefore be contrary to Principle HFT2 in the Hot Food Takeaway SPD.

**KC Crime Prevention:** Do not support the proposed development.

### **Planning Policy Background.**

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 application site is situated within Lockwood Local Centre on the Kirklees Local Plan.

It is also situated within close proximity to a number of Grade II Listed buildings.

The site is located within an area with a known presence of bats.

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):**

- LP1 – Presumption in favour of sustainable development
- LP2 – Place shaping
- LP3 – Location of new development
- LP7 – Efficient and effective use of land and buildings
- LP13 – Town centres
- LP20 – Sustainable travel
- LP21 – Highways
- LP22 – Parking
- LP24 – Design
- LP28 – Drainage
- LP30 – Biodiversity
- LP35 – Historic environment
- LP47 – Healthy, active and safe lifestyles
- LP51 – Protection and improvement of air quality
- LP52 – Protection and improvement of environmental quality
- LP53 – Contaminated land

**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, together with Circulars, Parliamentary 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 7 – Ensuring the vitality of town centres
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making efficient 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
- Chapter 16 – Conserving and enhancing the historic environment

**Supplementary Planning Guidance Documents:**

- Kirklees Waste Management Design Guide for New Developments (2020)
- Kirklees Highways Design Guide (2019)

## **Assessment.**

The following matters are considered in the assessment below: -

- 1) Principle of Development
- 2) Impact on Visual Amenity (including heritage)
- 3) Impact on Residential Amenity
- 4) Impact on Highway Safety
- 5) Other Matters
- 6) Conclusion

### **1) Principle of Development**

#### **1.1 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...”*

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 conclusion section of this report sets out the conclusions in relation to the principle of the development in light of all other material considerations.

#### **1.2 Local Centre & Acceptability of Use**

Paragraph 90 of the NPPF states that: *“Planning policies and 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”*

Policy LP13 of the Kirklees Local Plan sets out that: *“Proposals that have a significant adverse impact on the vitality and viability of a centre, or compromise the role and function of a centre will not be supported.”*

The site is within the Lockwood Local Centre where Policy LP13 of the Kirklees Local Plan states that the role of such Local Centres is to provide top-up shopping and local services, particularly food and drink and the proposed use would maintain this role, thereby not compromising the function or viability of the local centre.

Currently, the site is in use as a car park. Via negotiations undertaken by email, the planning agent confirmed the proposed use class of the unit to be under Class E(a), the same as a coffee shop. The planning agent went on further to state that the unit would sell hot drinks, snacks, crisps and cakes, some of which would be hot. It was clarified that the food would be prepared off site and kept warm on the premises, more akin to kiosks found at railway stations and larger towns and cities.

Therefore, although officers note that the submitted application form states that the use of the unit would be under former Use Class A5, given the explanation provided by the planning agent via email and the possibility of conditioning the use of the unit upon any grant of approval, the application will go on to be assessed as if in operation under Use Class E(a).

As such, given that the proposal seeks a unit in operation under Use Class E(a), it is not considered necessary in this instance to assess the application against Principles in the Hot Food Takeaway SPD.

Given the proposed operation of the unit to serve hot drinks, snacks, crisps and cakes, it is considered that its use would appropriately comply with the function of local centre as specified in the Kirklees Local Plan, with the planning agent confirming that the unit would operate in a similar fashion to a coffee shop and that hot food would be limited to that which could be kept warm, similar to the style of food sold at kiosks e.g. in railway stations, with no cooking on site.

In turn, given the above, officers would consider the principle of operation of the proposed unit within Lockwood’s Local Centre appropriate. The use would fulfil the requirements of LP13 of the Kirklees Local Plan with regard to Local Centres by contributing to the provision of a range of uses to support the daytime and evening economy.

Officers note that for the reasons set out within the planning history section of the report, it is considered that this current planning application has sufficiently overcome reason 2 of previous refusal 2022/92290. This is because reason 2 of refusal under application 2022/92290 referred to the introduction of hot food takeaways and impacts of this upon the viability and vitality of the Local Centre.

Therefore, it is considered that this proposal would appropriately accord with Chapter 7 of the NPPF and with the aims and objectives of LP13 of the Kirklees Local Plan with regard to use. LP13 goes on to state that town centre uses shall also conserve and enhance the local character and heritage where appropriate, this is explored in the following section of this report, '*Impact on Visual Amenity (including Heritage)*'.

## **2) Impact on Visual Amenity (including Heritage)**

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'*.

In this case, the container is to be situated on an area of hardstanding, currently free of any built form due to its use as a car park for the nearby commercial buildings and operations. The container is considered to appear functional and utilitarian in appearance. As such, is considered that the container would detract from the character and appearance of the area, as it would fail to be in keeping with the existing built form of the area and would lower the quality of the built environment. If approved, the works would create an undesirable precedent, with development based only on functionality.

The site's current open nature further adds to the concern raised above, as the development would be readily visible from multiple public vantage points. Therefore, given its functional form and utilitarian appearance and design, the repurposed storage container and accompanying bin store, are considered unsightly and bulky within the local context, failing to respect the current built form. In addition, whilst the finish of the container has not been specified, it would not be in keeping with the predominant local material, which appears to be stone. It should be noted that, even if it were to be finished in a 'stone' colour, this would not overcome the harm from the siting, form and appearance of the structure. The proposal would therefore fail to comply with paragraph 135 of the NPPF.

Alongside the above, the application has been assessed by the impact it would have on the character and setting of the row of Grade II listed buildings to the South West at 1-19 Bridge Street and to the West at 21 and 23 Bridge Street, as well as the Grade II listed building of Lockwood Baptist Church.

Section 66 of the Planning (Listed Buildings & Conservation Area) Act (1990) requires that LPA's pay special attention to the desirability of preserving or

enhancing the character or appearance of any conservation area where relevant.

Section 66 of the Planning (Listed Building & Conservation Areas) Act (1990) is mirrored in Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

Furthermore, Policy LP35 of the Kirklees Local Plan states that: *“Development proposals affecting a designated heritage asset...should preserve or enhance the significance of the asset. In cases likely to result in substantial harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring substantial public benefits that clearly outweigh the harm.”*

In this instance, it has been noted that given the substantial distance, the height to which the development would have, and its separation by virtue of a busy highway, there would be no harm to the significance or setting of the Grade II Listed buildings. For this reason, the application has been considered acceptable from a heritage perspective and therefore, has not been advertised as affecting the setting of the Listed Buildings.

Notwithstanding this, the development by combination of its siting, scale, utilitarian appearance and functional design and materials would not promote good design and would cause detrimental harm to the visual amenities of the locality, thereby failing to comply with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the NPPF.

Furthermore, it is not clearly demonstrated that waste storage facilities would not impact upon visual amenity of the locality and as such reason 6 of the previous refusal is not, therefore, considered to have been overcome in this regard.

### **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’.*

In this instance, the nearest residential property to the application site, is the flat at 215A Lockwood Road. In this instance, it has been noted that a considerable separation distance would be retained, along with the development being at an oblique angle with this property. Therefore, officers are satisfied that there would be no undue overbearing, overshadowing or

overlooking as a result of the works proposed upon these neighbours' amenity.

Paragraph 191 of the NPPF outlines that planning decisions should ensure that new development is appropriate for its location considering the likely effects of pollution on living conditions. In addition to this, Policy LP52 of the Kirklees Local Plan states that proposals which have the potential to increase pollution from noise, vibration, light, dust, odour and other forms of pollution must be accompanied by evidence to show the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, so as to ensure it does not reduce the quality of life and well-being of people to an unacceptable level or have unacceptable impacts on the environment.

In this instance, KC Environmental Health have been consulted, noting that little information has been submitted regarding how food is intended to be reheated / kept warm or the specific type/quantity of food that is to be reheated / kept warm. KC Environmental Health Officers also noted that no details have been provided regarding any potential kitchen extract systems and that, due to the single storey nature of the proposed structure, it would be difficult to fit an extraction flue of an appropriate height to prevent loss of amenity to nearby sensitive receptors.

The planning agent has confirmed via email negotiations that, whilst some of the food served from the unit would be hot, no cooking would take place on site. Therefore, whilst officer's note the proposed presence of the unit in relation to residential properties, it is concluded that any operations within Use Class E would be less intensive and relatively small scale and as such, the inclusion of a condition to limit the operational use of the building to that applied for upon any grant of approval, would be considered to suitably and sufficiently control the unit in terms of its impacts regarding any noise or odour pollution from the stages required for food preparation, re-heating and keeping warm.

KC Environmental Health also raised concerns that nearby existing residential premises may suffer loss of amenity due to noise associated with customers/deliveries coming and going from the proposed development. The application has not specified hours of use.

Whilst officers acknowledge that information regarding noise has not been provided, it is noted that this could be overcome by the inclusion of a condition upon any grant of approval, which would require the submission of a noise management plan before the premises is brought into use.

Given the above assessment, it is considered that this current planning application has sufficiently overcome reason 3 of previous refusal 2022/92290 via the change in the proposed use from fast food takeaway to Use Class E. This is because reason 3 of refusal refers to the impacts of two fast food units to residential amenity and quality of life. In addition, given the reduced scale and nature of the proposal it is considered the impact upon residential amenity as a result of waste storage could be suitably controlled by condition

and therefore this element of reason 6 of the previous refusal has been addressed by the proposed development.

In conclusion, having considered the above, concern is raised regarding the impact to which the development could have on nearby residential properties, due to the lack of odour control measures proposed for the unit. As such, the development would fail to accord with the aims of Policies LP16(b), LP24 and LP52 of the Kirklees Local Plan and Chapter 15 of the NPPF.

#### **4) Impact on Highways 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.

Furthermore, Policy LP16 d and e, states that an assessment would be required in relation to the availability of public transport, parking and servicing and highway safety. Criterion f seeks clarification of refuse storage and collection.

In this case, KC Highways Development Management have been formally consulted, with the following comments made:

The site takes access off Albert Street, with the nearest Village being Lockwood. The site is located in between the junctions of Bridge Street and Crowther Street. The application seeks the erection of one shop unit with associated parking, bin storage area and alterations.

It is proposed access to the site would be via one existing singular point of access off Albert Street, which is shared with adjoining properties/businesses. On site observations indicated that the existing car park is predominantly at capacity, with it assumed that parking is currently taken up by customers to the shop and taxi business underneath. No information has been provided as part of this application regarding the displacement of the existing parking provisions.

No traffic data has been supplied as part of this planning application and, as such, no meaningful assessment can be determined regarding the level of traffic to be generated with the proposed development or if the proposed parking provision is sufficient to accommodate the existing arrangements and this proposal.

No information has been supplied regarding how the existing business's receive deliveries. The proposed plan appears to allow limited space for delivery vehicles to enter and exit the site in forward gear or any turning space. Waste collection details, including whether waste collection vehicles could access the site, have not been provided. Given this, it appears this will

block the existing shared access to both the car park and adjoining businesses/properties.

No information has been provided regarding the level of parking, for example, via the submission of a parking accumulation survey.

Therefore, given the above concerns and the lack of information provided, Highways Officers have raised concerns with the application in its current form due to the conflicts in which the development would create between the existing businesses and residents, by forcing additional parking and waiting onto the highway, which would be detrimental to highway safety. This would be contrary to Policies LP21 and LP22 of the KLP, the Council's Highways Design Guide SPD and Chapter 9 of the NPPF.

The proposal is therefore not considered to have overcome reasons 4 and 6 of the previous refusal.

## **5) Other Matters**

### Ecology:

Chapter 15 of the NPPF relates to conserving and enhancing the Natural Environment. Paragraph 185 of the NPPF outlines that plans should promote the protection and recovery of priority species and identify and pursue opportunities for securing net gains for biodiversity. Paragraph 186 goes on to note that if significant harm to biodiversity resulting from development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Policy LP30 of the Kirklees Local Plan also echoes the NPPF in respect of biodiversity.

It is considered that the site is of low ecological potential given that it consists of principally hardstanding, and that the proposed development is unlikely to cause harm to protected species.

In addition it is highly unlikely that any measures to secure biodiversity net gains could be secured pursuant to the provisions of Policy LP30 of the Kirklees Local Plan and guidance within Chapter 15 of the NPPF given the nature and form of the development proposed..

Even so, as a cautionary measure, upon any grant of approval, a note will be added to the decision notice stating that if bats are found development shall cease and the advice of a licensed bat worker sought. This is to accord with the aims of Chapter 15 of the NPPF.

### 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.

In this case, a Climate Change Statement was submitted with the application, which sets out various mitigation measures.

It appears that there will be parking at the development therefore officers would expect the provision of Electric Vehicle Charging Points (EVCP) in the case of an approval. These should meet the recommendations in the West Yorkshire Low Emission Strategy (WYLES) current at the time of the application. Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information in relation to Approved Documents.

Given the above, it is considered that the proposal would appropriately comply with Policy LP51 of the Kirklees Local Plan and Chapter 14 of the NPPF.

*Drainage:*

The application form states connection to the mains drainage system but then goes on to state that the proposed development will not connect to the system. The applicant has answered 'main sewer' to the question asking 'please state how foul sewage is to be disposed of' but then answers 'no' to the question asking 'are you proposed to connect to the existing drainage system?'

The submitted floor plan demonstrates that a WC is to be included within the unit, and therefore there is an expectation for a sink to also be installed. No information has been provided regarding the safe disposal of foul water from the premises. Upon formal consultation with KC Environmental Health, Environmental Health officers noted that this information should be provided before the application is determined, with the applicant required to demonstrate an adequate system of foul water drainage.

If the intention is to connect to the mains drainage system, the applicant must also demonstrate how fats, grease and oils will be prevented from discharging into the mains drainage system. This is to accord with Policies LP28 and LP52 of the KLP and Chapters 14 and 15 of the NPPF.

Upon any grant of approval, a pre-commencement condition would be imposed, requiring the submission of a scheme to prevent fats, oils and

grease entering the drainage network serving commercial food preparation and dish-washing areas.

*Crime Prevention / Anti-Social Behaviour:*

KC Crime Prevention have been formally consulted. In this case, the officer has raised concern due to the number of existing food outlets in this immediate area, reported anti-social behaviour and littering issues.

Chapter 8 of the NPPF place great weight on promoting healthy and safe communities so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.

Whilst no crime prevention measures have been included as part of the submission of this planning application, it is noted that concerns regarding crime and / or anti-social behaviour could be overcome by the inclusion of a condition upon any grant of approval, which would require the submission of a management plan before the premises is first brought into use, including details of, but not limited to, CCTV systems and their location around the premises and the provision of bins.

Officers also note that this application is seeking permission for the unit to be in use under Class E, not to operate as a fast-food takeaway. Such a use of the premises could be conditioned upon any grant of approval.

Furthermore, to mitigate undue impacts regarding crime and / or anti-social behaviours relating to the proposal, upon any grant of approval, a condition would be imposed to restrict the hours of opening to customers. This condition would be deemed appropriate upon any grant of approval for reasons of public safety, so that there would be no late hours of operation.

Therefore, given the proposed use sought under this planning application, and the option to include the aforementioned conditions to restrict the use of the premises, to restrict the hours of opening to customers and for a management plan to be submitted, officers conclude that any concerns regarding crime and / or anti-social behaviour could be overcome.

For the reasons set out above, it is considered that this current planning application has sufficiently overcome reason 5 of previous refusal of 2022/92290, predominantly a result of the change in the proposed use from fast food takeaway to Use Class E, meaning appropriate conditions could be imposed upon any grant of approval. This is because reason 5 related to crime and anti-social behaviour which directly related to the operation of two new units as fast-food takeaways.

*Contaminated Land:*

Local Plan Policy LP53 relates to contaminated and unstable land.

Whilst the location of the proposed development site has not been identified as being on land potentially contaminated due to its previous use, it is very close to land that is potentially contaminated. Therefore, in the case of an approval, an appropriate condition, regarding the finding of unexpected contaminated would be attached to the decision should permission be granted.

With the inclusion of this aforementioned condition, the proposal would be considered to appropriately comply with Policy LP53 of the Kirklees Local Plan and Chapter 15 of the NPPF.

## **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 proposed development would not constitute sustainable development and is therefore recommended for refusal.

**Recommendation:** Refuse

**Decision Authorisation** - Delegated Powers

**Application Number:** 2023/93751

**Officer Recommendation:** Refuse

### **Reasons for Refusal**

1. The development by virtue of its siting, scale, utilitarian and functional design and materials, would result in an incongruous, undesirable and over-prominent form of development that would have a detrimentally harmful impact on the character of the site and the wider context. The proposed development would fail to promote good design, contrary to Policy LP24 (a) of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.
2. The proposed development would cause a loss of on-site parking at the application site, whereby no information has been submitted to show that it would not cause conflict with parking and deliveries to the existing shop, parking for the taxi business and the private access to the dwellings and businesses known as 215-219 Lockwood Road. As a consequence, this would force additional parking and waiting onto the highway known as Albert Street which would have a detrimental impact on highway safety, contrary to Policies LP16 (d and e), LP21 and LP22 of the Kirklees Local Plan, the Council's adopted Highways Design Guide Supplementary Planning Document and Chapter 9 of the National Planning Policy Framework.

3. It has not been demonstrated that waste storage or facilities for the disposal of customer's litter can be accommodated within the application site such that this can be adequately screened in a manner and location that does not detract from the street scene or the character of the area. Furthermore, given the relationship between the proposed unit and the wider car park, it has not been demonstrated that it would be possible to site waste storage facilities that would provide access for refuse collection vehicles. Therefore, the application would be harmful to visual amenity and highway safety contrary to Policies LP21 & LP24 of the Kirklees Local Plan and policies contained within Chapters 9 and 12 of the National Planning Policy Framework.

Plans and Specifications Schedule: -

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan	LOC	-	20.12.23
Existing Site Plan	(100)01	-	20.12.23
Proposed Plans, Elevations and 3D	(200)04	A	20.12.23
Climate Change Statement	-	-	20.12.23

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 entered into negotiation with planning agent to seek clarification regarding the proposed use of the shop unit given discrepancies in the description of the proposed use across the submitted information. These negotiations were undertaken via email.

The case officer did not enter into any further negotiations with the planning agent or applicant. This was due to this application failing to overcome some of the previous reasons for refusal as set out under previous planning application referenced 2022/92290, with it considered that there would be no suitable amendments within the remit of this application which could overcome the identified reasons.

Report Dated:

18.04.24

