

**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:	2024/62/90654/W
Site Address:	Land Off, Bradford Road, near Hillhouse Lane, Huddersfield, HD1 6EF
Description:	Erection of two retail units
Recommending Officer:	John Holmes

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.

Emma Thompson

AUTHORISED OFFICER

Date: 16-Jan-25

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Officer Report – 2024/90654

Site Description

The site consists of a strip of land on the western side of Bradford Road, extending from no.141

Bradford Road in the south, to the junction with Hillhouse Lane to the north, which has been raised above highway level to form a concrete platform held in place by a retaining wall, and incorporating associated land extending west around the back of 12(a-c) Hillhouse Lane including a tarmac driveway giving access to Hillhouse Lane some 25m from the Bradford Road junction.

12 Hillhouse Lane, now divided into three units, is a single-storey, flat-roofed brick building with large fascias made of synthetic cladding, occupied by a dessert parlour, bakery / sweet shop, and a small hot food takeaway unit, fronting on to Hillhouse Lane. To the west, and originally within the curtilage of no. 12, is another building that was originally a quadruple garage block but is now in use as a café although there is no record of planning permission having been obtained for this. The adjacent stretch of Bradford Road is strongly commercial in character, but buildings fronting on to Hillhouse Lane are mostly residential (terraced housing on the northern side, bungalows on the south side).

Description of Proposal

The Scheme

The applicant is seeking permission for the erection of two retail units.

It is noted that another development at the site has already been carried out.

This application is considered to differ from that as carried out at site to the extent this application is considered to be seeking permission for proposed development. Notwithstanding this consideration, it is noted that the development proposal the subject of this application has in part commenced given it relates to 2.no containers already in situ.

In an email dated 26th April 2024, the applicants' agent has confirmed the intention for the hours of operation to be 09:00 – 18:00.

Within the Planning Statement submitted as part of the application, the following summarised points are raised:

- The site is within a defined centre as defined in the Kirklees Local Plan, and therefore a sequential assessment is not required.
- A previous application was submitted for this site (Ref: 2023/92943) for the units to be used for hot food-takeaway units. The application was withdrawn as the Council raised concerns about the impact on the mix of uses within the local centre, with there being a predominance of Hot Food Takeaway Units in the Local Centre.
- This application now seeks the use of the units for Class E (a) – the display or retail sale of goods, other than hot food.
- Class E (a) is a main town centre use.

- The proposed development includes a bin storage area in the yard to the rear of the building.
- Do not consider that the development would have an impact on crime and community safety on the basis the bins will be stored in a secure yard which will prevent any fires being started in the waste.
- The units are fitted with security roller shutters.
- The proposed development is within Hillhouse Local Centre, which is considered to be a sustainable location that is well served by Public Transport.
- There is on street parking available around the Local Centre and there are off-street parking spaces immediately adjacent to the development on Hillhouse Lane.
- There are parking restrictions on the road to the front of the units that will prevent any parking or build-up of traffic on Bradford Road.

The submitted plans were subject to amendment. Initially submitted the plans reflected the extent of built form at site. The existing, unlawful, development of the site consists of 3.no containers, adjacent to an existing building, which have been the subject of a level of further operational development. In this case the laying of hardstanding, construction of a lean to canopy and construction of railings being detailed within the submitted plan.

The site, prior to development, incorporated an area of soft landscaping which has since been turned to concrete hard standing, and had three containers sited upon it.

The plans have been subject to amendment from the scheme as initially proposed, revising the scheme down to 2.no units (immediately adjacent to the existing building) and removal of a canopy. Materials of construction have also been included upon the submitted plans, in this case natural stone (100mm stone outer leaf with 100mm cavity). The plans also demonstrate windows to the frontages.

Within the plans four parking spaces are shown and accessed to the side of the existing building. An area for waste storage is shown on this plan also. A small area of the existing building is shown on the submitted block plan as being a store / WC which is also being considered as part of this application.

History of Negotiations / Amendments Received

During the course of the processing of this application the responses of the Highways Team has been provided to the applicants' agent. Amendments have been submitted in light of the concerns they raise.

In addition concerns about the visual impact of the initially submitted proposal were raised and amended plans submitted to address those concerns.

Relevant Planning History

The most relevant planning history relates to the following planning applications

Application site

2014/93209: Erection of extensions to front and first floor of the building to form mixed use

2017/91132: Erection of two storey side extension to form enlarged Class A1 shop at ground floor (12b)

2018/92365: Change of use from bed shop to hot food takeaway (12b)

2019/92183: Change of use from retail (A1) to restaurant/cafe (A3) (12a)

It is also of relevance the fact a previously withdrawn application was prepared for presentation for the Council's District Committee, with the details being as follows:

2023/92943: Erection of three food takeaway units: Withdrawn, and recommended for refusal for the following reasons:

- 1. The development would further contribute to an existing high concentration of food and drink uses, and hot food takeaways in particular, within this part of Hillhouse Local Centre, and the Local Centre as a whole. It would increase the concentration of hot food takeaway ground floor units in the Local Centre to more than 15% of all main town centre uses and create a cluster of three hot food takeaways, contrary to the Policy HFT2 within the Hot Food Takeaway Supplementary Planning Document (SPD). It has not been demonstrated that the proposed takeaway units would contribute positively to the economic regeneration of this local centre and it is considered that they would serve to undermine its vitality, viability, character and function as a retail and service provider. This would be incompatible with the aims of Policy LP16 of the Kirklees Local Plan, the Hot Food Takeaway SPD, Chapters 6 and 7 of the National Planning Policy Framework (NPPF), and would not support the economic aims of sustainable development as set out in paragraph 8 of the NPPF.*
- 2. The creation of three new hot food takeaway units within this location, in which the level of deprivation and adverse public health indicators are already a cause for concern, would not be compatible with the Council's duty to facilitate the creation of a healthier food environment and improve health inequalities and therefore contrary to Policy LP47(l) of the Kirklees Local Plan, paragraphs 96c and 97b of the National Planning Policy Framework, Planning Practice Guidance (Healthy and Safe Communities, 19th July 2019, paragraph 004) and the Kirklees Health and Wellbeing Strategy.*
- 3. The proposed takeaway units, by reason of their design, siting and the palette of materials used, have a strongly negative impact on visual amenity and the wider townscape. To grant permission would thereby conflict with the aims of Policy LP24(a) of the Kirklees Local Plan and paragraphs 135 and 139 of the National Planning Policy Framework.*
- 4. In the absence of a Noise Assessment or Odour Assessment, and with the hours of operation that have been proposed, it is considered that the proposed takeaway use would have the potential to cause loss of amenity to noise-sensitive and odour-sensitive receptors in the vicinity of the site, contrary to the aims of Policy LP16(b), LP24(b) and LP52 of the Kirklees Local Plan, Policy HFT4 within the Hot Food Takeaway SPD, and Chapter 15 of the National Planning Policy Framework.*
- 5. The site is registered as being potentially contaminated owing to its past uses and is also within a Coal Referral Area, as defined by the Coal Authority.*

In the absence of a contaminated land report (Phase 1 or Phase 2), there are unresolved concerns that the groundworks already undertaken, and possible future ground disturbance, have the potential to release contaminants (including mine gas) into the environment and expose future users of the site to health risks. To grant permission would therefore be contrary to the aims of Policy LP53 of the Kirklees Local Plan and paragraph 189(a) within the National Planning Policy Framework.

6. The proposed development proposes no new off-street parking and it is considered that the existing spaces on the frontage of 12 Hillhouse Lane would be inadequate to serve the additional demand at peak times, leading to unsafe parking by the side of Hillhouse Lane near the junction with Bradford Road. It has not been demonstrated that the proposed railings would allow the preservation of adequate junction intervisibility. The proposed takeaway units lack a dedicated means of pedestrian access, leading to users having to cross the parking forecourt resulting in conflict between vehicles and pedestrians and a risk of accidents. The lack of a means of surface water disposal would result in run-off water flowing over the Bradford Road footway which would give rise to a further hazard and inconvenience to pedestrians. The proposed development would therefore have a materially negative impact upon the safety and convenience of highway users, contrary to the aims of Policies LP20, LP21 and LP22 of the Kirklees Local Plan and paragraph 135(f) of the National Planning Policy Framework.

It is considered reasons 1 and 2 are not applicable to the consideration of this application.

Whether the development is acceptable / has addressed the recommended reasons 3 – 6 is discussed in the 'Assessment' section of this report.

Enforcement history

COMP/22/072 – Alleged unauthorised operation of business out of 3 containers units. First reported: 14-Feb-2022, development continued and retrospective application submitted 03-Oct-2023.

It is considered this is relevant insofar that, the development the subject of this application has now been amended to the extent it does not seek to regularise the unlawful development which has taken place at the site and rather proposed a different proposal.

Representations

Publication of the application has been undertaken in accordance with the Council's Development Management Charter (July 2015).

The application has been publicised on the Council's website and by neighbor notification letter. The expiry date of the publicity period was the 24th April 24. Four representations (2.no objections, 2.no supporting comments) have been received, raising the following points:

Supporting comments

- It would be helpful to have a running business nearby rather than having an empty land or unit which become a shelter for criminals and drug addicts.

- With added security such as cctv, and lighting would actually deter negative people from using the premises.
- In support of having more business activity around this area.
- A brilliant idea
- Of the view that this building will truly be an asset to the already developing area.
- These shops will increase the attractiveness of Hillhouse Lane, which was once an unattractive area.
- These shops would add to the economic advantages of the area, where business are already booming.

Objections

- Visually out of character.
- This site is an eyesore on the main major road in and out of Huddersfield.
- These 3 storage containers were erected without any thought of the area and people living around here.
- There has been no discussion with planning or building control and Kirklees council.
- Antisocial behaviour occurs on the site.
- Consider it likely neighbouring residents do not consider the site to be well developed.
- The development does not attract people to visit Huddersfield.
- Whilst proposed as retail, there is potential there will be the introduction of hot food.

Whilst amendments have been received, these have removed elements / reduced the scale of the proposal such that it is considered further publicity of the amended scheme was not necessary in this case as the scheme as advertised adequately alerted the public to the nature of the development.

Consultation Responses

The following consultations have been undertaken for this application with the summarised responses listed below.

KC Highways – No objection.

The Coal Authority – No objection

Environmental Health – No objection subject to condition

West Yorkshire Police Designing Out Crime Officer – No objection subject to condition.

The responses of the above consultees are discussed in greater length within the 'Assessment' section of this report.

Allocation and 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 within Hillhouse Lane Local Centre within the Local Plan Proposals Map. It also lies within a Coal Referral Area. Part of the land is deemed to be potentially contaminated owing to past uses.

The following legislation, policy and guidance is considered relevant to the determination of this application:-

Kirklees Local Plan

- LP 1: Presumption in favour of sustainable development
- LP 7: Efficient and effective use of land and buildings
- LP 13: Town centre uses
- LP 16: Food and drink uses and the evening economy
- LP 20: Sustainable travel
- LP 21: Highway safety and access
- LP 22: Parking
- LP 24: Design
- LP 30: Biodiversity and geodiversity
- LP 51: Protection and Improvement of Local Air Quality
- LP 52: Protection and improvement of environmental quality
- LP 53: Contaminated and unstable 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 December 2024, 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 6 – Building a strong competitive economy
- Chapter 7 – Ensuring the vitality of town centres
- Chapter 8 – Promoting healthy and safe communities
- Chapter 12 – Achieving well-designed and beautiful places
- Chapter 14 – Planning for climate change, flood risk and coastal change
- Chapter 15 – Conserving and enhancing the historic environment.

Supplementary Planning Documents

- Highways Design Guide 2019
- Biodiversity Net Gain Technical Advice Note
- Climate Change Guidance for Planning Applications

- Waste Management Design Guide for New Developments

Legislation

- The Town & Country Planning Act 1990 (as amended).
- The Planning and Compulsory Purchase Act 2004.
- Section 17 of the Crime and Disorder Act 1998 (as amended)
- The Conservation of Habitats and Species Regulations 2017

Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that in considering planning applications the determination must be made in accordance with the plan unless material considerations indicate otherwise

Assessment

The following matters are considered in the assessment below –

1. Principle of development
1. Impact upon the character and appearance of the area
2. Residential amenity and environmental issues
3. Highway issues
4. Climate Change
5. Other matters
6. Representations
7. Conclusion

1 – Principle of Development

Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in chapter 2 of the National Planning Policy Framework.

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”.

Paragraph 48 of the National Planning Policy Framework (NPPF) which is a material consideration in planning decisions, confirms that planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. This approach is confirmed within Policy LP1 of the Kirklees Local Plan, which states that when considering development proposals, the Council would take a positive approach that reflects the presumption in favour of sustainable development contained within the Framework. Policy LP1 also clarifies that proposals that accord with the policies in the Kirklees Local Plan would be approved without delay unless material considerations indicate otherwise. The application site is within Hillhouse Local Centre. For any application located within a town or local centre, Chapter 7 of the NPPF applies, which

states that local planning authorities should take a positive approach to their growth, management and adaptation

As the proposal seeks consent for a use falling within Class E(a) it is considered this suitably addresses the concerns in relation to the previous (now withdrawn) application. Policy LP13 seeks to ensure that main town centre uses shall be located within defined centres. The development seeks consent for a main town centre use (retail) within an identified centre, in this case Hillhouse Local Centre.

It is considered the scale of the development would provide floorspace that would realistically serve the functions for top-up shopping and local services, particularly food and drink, as sought by policy LP13.

This proposal does not set out the intention for a use which is applicable for consideration under policy LP16. However, this policy is relevant insofar as, were the use to be for a hot food takeaway, it was considered within the withdrawn application that the development would further contribute to an existing high concentration of food and drink uses, and hot food takeaways in particular, within this part of Hillhouse Local Centre, and the Local Centre as a whole. A hot food takeaway use would increase the concentration of hot food takeaway ground floor units in the Local Centre to more than 15% of all main town centre uses and create a cluster of three hot food takeaways. As such it is considered that the requirement for the use of the buildings the subject of this application to be retail is directly linked to this consideration and that whilst the principle of retail development can be considered acceptable it is necessary to ensure this is the case by a condition in place on any grant of permission for the reasons outlined.

The proposal would have a small scale impact in relation to providing employment opportunities within the local centre and adding to the offer available. It is considered that in this case, on the basis the use is restricted to that falling within use class E(a) of Schedule 2 of The Town and Country Planning (Use Classes) Order 1987 (as amended), the principle of development is acceptable.

2 – Impact on character and appearance of the area

Section 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(a) 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 surrounding street scene is dominated by stone and tile buildings, many of which appear to date from the 19th Century. The Café Celeste and Sabir’s buildings on the northern side of the Hillhouse Road junction are recent constructions but are faced in natural stone and have pitched roofs. Units 12(a-c) Hillhouse Lane do not conform to this general picture as they are mainly built in brick with flat roofs.

With regard to the existing development of the site. The painted steel cabins, and the associated canopy framework is more visually unappealing than the existing units at 12 Hillhouse Lane, and prominent being on the Bradford Road frontage, on top of a retaining wall. They form a visually jarring feature that does not respect or conserve the existing townscape and that harms visual amenity. In general, the use of metal containers or other prefabricated buildings in established built-up areas in such a prominent location on an entrance route to the town centre, together with utilitarian canopy frame, would not be likely to be supported on visual amenity grounds.

This was conveyed to the applicants' agent, who sought to amend the scheme. The scheme has been amended such that it is proposed to remove the canopy, and remove one of the containers. The containers remaining would be sited adjacent to the existing building and would see the use of natural stone cladding to the structures which would remain. A railing is to the front of the site, it is considered that on the basis this is of a black colour finish the visual impact of the railing is acceptable. A condition to ensure this is a black colour is recommended.

Whilst the structures would be flat roofed, they would be read in the context of the existing building which is of a mono pitch design and from materials which do not have a high standard of design quality insofar as it relates to a buff brick rather than natural stone which is the material of construction used to the majority of buildings in the locality. It is noted that the proposals would incorporate an internal roller shutter, given this would be an internal feature it is considered it would not have as significant an impact as the roller shutters in place upon the building(s) now which are externally sited.

Having regard to the layout of the site, and the scale of the buildings, on the basis they would be clad within an agreed timeframe (given this element of the scheme relates to part of the development which has been undertaken), it is considered that the proposed development would be acceptable visually subject to condition that the buildings annotated unit 1, unit 2, store and WC on submitted drawing 2870_(100)02revD be clad in natural stone within three months of the date of the decision, and the materials thereafter retained. Similarly, it is considered appropriate to include a condition requiring the shutters to be installed internally to units 1 and 2 to ensure their impact is visually acceptable.

Subject to condition it is concluded that the amended scheme the subject of this application has satisfactorily addressed the recommended reason for refusal (reason no.3) recommended in relation to the previously withdrawn application and would meet the requirements of the aforementioned policies in relation to visual amenity and impact upon the character of the locality.

3. Impact on Residential Amenity

Sections B and C of LP24 states that alterations to existing buildings should: *"...maintain appropriate distances between buildings' and '...minimise impact on residential amenity of future and neighbouring occupiers."*

Further to this, Paragraph 130 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

Policy LP52 is considered to be of relevance and sets out that development must be considered in relation to potential for increases from pollution, in this

case the relevant possible increases could relate to noise, light & odour emissions.

Within the consideration of the withdrawn application concerns were raised in relation to noise and odour (reason no.4) and fact there was no detail provided to address these issues. As part of this application, to address this concern, the proposal is such that it seeks consent for retail use only rather than for a hot food takeaway use. Odour is therefore considered to be suitably addressed by the fact retail use only is sought as part of this application. Any grant of permission is therefore recommended to be subject to condition on the basis the use is for retail only, to protect residential amenity of neighbouring occupiers.

The Council's Environmental Health Team have provided comments and set out that on the basis of the use is to that set out (retail) and on the basis of hours of use of 09:00 – 18:00 they consider the development to be acceptable with regard to noise. A further condition is recommended by the Environmental Health Team in relation to mechanical ventilation, specifically that equipment does not exceed the background sound level at any time. In light of the fact the development seeks retail use in this case and having regard to the response of the Environmental Health Team it is considered the development is acceptable with regard to noise / odour impact, subject to inclusion of the recommended conditions.

Turning to overlooking, overshadowing / overbearing impact from the development. Given the scale of the development and distance sited from neighbouring occupiers it is considered the impact in regard to these considerations would not be significant in this case.

It is therefore concluded, subject to condition, the proposal is acceptable with regard to residential amenity impact.

4. Impact on Highway Safety

Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF relate to access and highway safety and are considered to be relevant to the consideration of this application.

The scheme has been subject to a number of amendments, with the RevD drawing setting out the latest proposal in relation to the layout of the site. Following review of these plans the Highways Team confirm that they have no objection on the basis the amendments (relating to the provision of a ramp and gradients upon the site) have satisfactorily addressed their concerns. The recommended reason for refusal (reason no.6) of the previously withdrawn application is noted. However, there has been substantial amendment since the recommendation put forward for the withdrawn application, in particular the fact that the scheme has reduced the quantum of development by a third and the fact the use which is proposed would be retail rather than as hot food takeaway. Finally this proposal would not incorporate the canopy as part of the scheme. Details of surface water drainage are also set out within the submitted plan.

The response of the Highways Team is noted, the proposal demonstrates parking areas, waste storage areas and how manoeuvres can be undertaken by vehicles within the site. Access is demonstrated for pedestrians as well as demonstration of visibility splays (having regard to the railings at site).

It is considered that the revised scheme has satisfactorily addressed the issues raised as part of reason for refusal no.6 of the withdrawn application and subject to condition the use of the site is retail it is considered the proposal is acceptable with regard to access and highway safety. The development is therefore concluded to meet the requirements of the aforementioned policy in this regard.

5. 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. Considering the scale and nature of the proposed development, it is considered that the proposed development would not have an impact on climate change that needs mitigation to address the climate change emergency. The proposal would provide retail which could assist in a reduced need for vehicular trips by residents in the locality, thus having a small scale beneficial impact in relation to carbon reduction. The proposed development would therefore comply with Chapter 14 of the National Planning Policy Framework.

6. Other Matters

Land Quality / Stability

Policy LP53 of the Kirklees Local Plan and paragraphs 189 and 190 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.

In support of the application several historic reports have been provided that relate to earlier applications at the site. The Council's Environmental Health Team have reviewed these and have advised these reports are historic in nature and are not specific to this proposed development, they generally advise further intrusive work to establish information in relation to shallow coal. Which can pose a risk to the development due to combustion and coal related gas. The Environmental Health Team recommend contaminated land conditions to ensure a minimum addendum to the Phase 1 report, which is specific to the current proposal which appears to be above ground container units, which may be served by in ground services. Specifically the conditions recommended require submission of a phase I and II assessment of land quality, remediation strategy (if necessary) and verification of land quality. The Coal Authority have been consulted regarding the proposal and set out that the applicant has submitted a Mining Investigation Report (May 2015, prepared by Abbeydale Building Consultants). They advise that this report

indicates a shallow coal mining borehole investigation was carried out at the site under Coal Authority Permit No. 10680. It indicates that evidence of mine workings in the Soft Bed coal seam was encountered during drilling although the report author is satisfied that these workings lie at sufficient depth (with adequate overlying rock cover) to pose no significant risk of instability to development at the site, assuming the use of shallow building foundations. The Coal Authority confirm they have no objection to the proposal the subject of this application.

Within the consideration of the withdrawn application reason no.5 of the recommended refusal related to the absence of a phase I and II assessment. Within the consideration of the withdrawn application the Coal Authority set out that they considered it necessary for further information to be submitted. In light of the further submitted detail, accompanying this application, and the response of consultees it is considered that land quality / stability is acceptable and can be addressed by inclusion of appropriately worded conditions.

It is therefore concluded that subject to conditions the proposal is acceptable in this regard.

Impact on crime and anti-social behaviour

Section 17 of the Crime and Disorder Act 1998 places a duty on each local authority to '*do all that it reasonably can to prevent crime and disorder in its area*'. Section 8 ('Promoting healthy and safe communities') of the National Planning Policy Framework states at paragraph 96 that there should be an aim to achieve healthy, inclusive and safe places which: (b) are safe and accessible so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.

Policy LP24 sets out that proposals should promote good design by ensuring the risk of crime is minimised by enhanced security, and the promotion of well-defined routes, overlooked streets and places, high levels of activity, and well-designed security features.

Within their response of 22nd March the West Yorkshire Police Designing Out Crime Officer advises they consider a condition would be necessary for any grant of consent, which secured a number of safety and security measures as part of the development. Within the consideration of the withdrawn application it was set out that consideration would need to be given to installation of external lights covering the access doors and beneath the canopy to increase surveillance, and installing CCTV coverage, which can monitor activity within this location, including the fronts to the business units.

It is considered this is applicable in the consideration of this case, and it is recommended this is ensured by the inclusion of a condition requiring a scheme of safety / security measures to be submitted to the LPA for written approval prior to the development being brought into use.

Subject to condition the proposal is considered acceptable in this regard.

Waste disposal issues

With regard to waste disposal, this was considered to be a matter which would need further consideration, and likely a matter which would be subject to condition. Given the use of the units would be retail and the reduced scale of the development it is considered it would be unreasonable of the LPA to

require a scheme of waste disposal measure / measures to control litter to be submitted. The use as proposed is not one which is linked to producing levels of litter as high as that as a hot food takeaway. As such the proposal is considered to be acceptable in this regard.

Ecology

Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance.

In terms of Biodiversity Net Gain as set out by the statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021). The development is considered to benefit from the small sites exemption as set out by The Biodiversity Gain Requirements (Exemptions) Regulations 2024 given it was received in March 2024. Therefore there is no requirement for BNG to be provided in respect of the aforementioned legislation.

Given the nature and the scale of the proposal it is considered unnecessary in this case to seek ecological mitigation measures as part of the development.

7. Representations

The following representations have been received, and are addressed within this section of the report:

Supporting comments

- It would be helpful to have a running business nearby rather than having an empty land or unit which become a shelter for criminals and drug addicts.
- With added security such as cctv, and lighting would actually deter negative people from using the premises.

Response: Safety and security matters are considered section 6 of this report.

- In support of having more business activity around this area.
- A brilliant idea
- Of the view that this building will truly be an asset to the already developing area.
- These shops will increase the attractiveness of Hillhouse Lane, which was once an unattractive area.
- These shops would add to the economic advantages of the area, where business are already booming.

Response: The comments raised in support of the development, in relation to increased economic activity are noted and have been taken into account in the consideration of the principle of the development.

Objections

- Visually out of character.

- This site is an eyesore on the main major road in and out of Huddersfield.

Response: The visual impact of the development is taken into account within section 2 of this report.

- These 3 storage containers were erected without any thought of the area and people living around here.

Response: The impact upon neighbouring occupiers is set out in section 3 of this report.

- There has been no discussion with planning or building control and Kirklees council.

Response: It is considered this is a matter to which minimal weight can be afforded as a consideration which is material to the determination of this case.

- Antisocial behaviour occurs on the site.

Response: Safety and security matters are considered section 6 of this report.

- Consider it likely neighbouring residents do not consider the site to be well developed.
- The development does not attract people to visit Huddersfield.

Response: The views asserted within these representations are noted.

- Whilst proposed as retail, there is potential there will be the introduction of hot food.

Response: In the event the use of the units is for hot food takeaway(s) there would be a requirement for planning permission for change of use to be first granted. As such were such a use be intended it would be subject to a further application for planning permission or could be subject to enforcement action were the change of use not lawfully undertaken.

8. 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, the proposed development would constitute sustainable development and is therefore recommended for approval.

Recommendation

APPROVE

Decision Authorisation: Delegated Powers

Application Number: 2024/90654

Officer Recommendation: Conditional Full Permission

Conditions

1. 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 to accord with Policies LP01, LP02, LP13, LP16, LP21, LP22, LP24, LP30, LP51, LP52, LP53 of the Kirklees Local Plan and Policies within Chapters 2, 6, 7, 8, 12, 14 & 15 of the National Planning Policy Framework

1. The development hereby approved shall be operated for a use which falls within class E(a) of Schedule 2 of The Town and Country Planning (Use Classes) Order 1987 (as amended) only.

Reason: To ensure there is not a further concentration of food and drink uses, and hot food takeaways in particular, within this part of Hillhouse Local Centre, and the Local Centre as a whole, in the interests of access and highway safety and in the interests of residential amenity to accord with policies LP13, LP16, LP21, LP22 & LP24 of the Kirklees Local Plan and policies within Chapters 6, 7 and 12 of the National Planning Policy Framework.

2. The premises, shall not be open for business including deliveries to or dispatches from the premises, outside the hours of: 09:00 and 18:00 Monday to Sunday.

Reason: To ensure that the proposed use 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 Policies LP24 and LP52 of the Kirklees Local Plan and policies within Chapters 12 and 15 of the National Planning Policy Framework.

3. The combined noise from any fixed mechanical services and external plant and equipment shall be effectively controlled so that the combined rating level of noise from all such equipment does not exceed the background sound level at any time. "Rating level" and "background sound level" are as defined in BS 4142:2014+A1:2019.

Reason: To ensure the proposed development does not cause harmful noise pollution within neighbouring noise sensitive locations, in the interest of amenity, to comply with Policies LP24 and LP52 of the Kirklees Local Plan and policies within Chapters 12 and 15 of the National Planning Policy Framework.

4. Within three months of the date of this decision the buildings annotated store, WC, unit 1 and unit 2 shown on submitted drawing 2870_(100)02RevD shall be externally clad in natural stone which shall be retained thereafter.

Reason: In the interests of visual amenity to accord with policy LP24 of the Kirklees Local Plan and policies within Chapter 12 of the National Planning Policy Framework.

5. Within three months of the date of this decision the roller shutters upon the buildings annotated unit 1 and unit 2 upon submitted drawing 2870_(100)02RevD shall be installed internally and of a powder coated black colour finish. The 1.1m high railing upon drawing 2870_(100)02RevD shall be powder coated in a black colour finish. The shutters and railing including their colour finish shall be retained thereafter.

Reason: In the interests of visual amenity to accord with policy LP24 of the Kirklees Local Plan and policies within Chapter 12 of the National Planning Policy Framework.

6. The development shall not be brought into use until a scheme has been submitted to, and approved in writing by, the Local Planning Authority which sets out all measures to minimise the risk of crime and meet the specific security needs of the application site and the development. The approved scheme shall be implemented before the development is first occupied and retained thereafter.

Reason: to ensure that safety and security measures have been agreed in pursuance of the Council's duty under Section 17 of the Crime and Disorder Act 1998 and to accord with policy LP24 of the Kirklees Local Plan and the policies contained within Chapter 12 of the National Planning Policy Framework.

7. Within three months of the date of this permission actual or potential land contamination at the site shall be investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) submitted in writing to the Local Planning Authority. The development shall not be brought into use until the issuing of the written approval of the submitted Phase I Desk Study Report by the Local Planning Authority.

Reason: To identify and remove unacceptable risks to human health and the environment and in accordance with Policy LP53 of the Kirklees Local Plan and policies within section 15 of the National Planning Policy Framework. This is a pre commencement condition as intrusive site investigation works may be necessary before work can commencement on the construction of the development hereby approved.

8. Where further intrusive investigation are recommended in the Preliminary Risk Assessment approved pursuant to condition no.8 the development shall not be brought into use until a Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the Local Planning Authority.

Reason: To identify and remove unacceptable risks to human health and the environment and in accordance with Policy LP53 of the Kirklees Local Plan and policies within section 15 of the National Planning Policy Framework. This is a pre commencement condition as intrusive site investigation works may be necessary before work can commencement on the construction of the development hereby approved.

9. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition no.9 the development shall not be brought into use until a Remediation Strategy 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 identify and remove unacceptable risks to human health and the environment and in accordance with Policy LP53 of the Kirklees Local Plan and policies within section 15 of the National Planning Policy Framework. This is a pre commencement condition as intrusive site investigation works may be necessary before work can commence on the construction of the development hereby approved.

10. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 10. 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 thereafter be carried out in accordance with the approved revised Remediation Strategy.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 178 and 179 of the National Planning Policy Framework

11. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation 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 (that part of) the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the Local Planning Authority. Where validation has been submitted and approved in stages for different areas of the whole site, a Final Validation Summary Report shall be 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. 178 and 179 of the National Planning Policy Framework

NOTE: All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework. 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. 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.

Plans and specifications schedule:-

Plan / Document Type	Reference	Date Received
Application form		5 th March 2024
Plans and Elevations as proposed	2870_(100)02RevD	21 st October 2024
Section Plan	2870(100)03RevA	21 st October 2024
Email dated 27 th September 2024		27 th September 2024
Email dated 28 th May 2024		28 th May 2024
Email dated 26 th April 2024		26 th April 2024
Preliminary Investigation	C389	22 nd April 2024
Planning Statement		5 th March 2024
Climate Change Statement		5 th March 2024

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 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. Amendments were submitted to address highway and visual amenity concerns.

Report Dated: 6th January 2025

Coal – High

