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:	**2024/62/91142/E**
Site Address:	A K Superstore, 4, Battye Street, Dewsbury, WF13 1PH
Description:	Erection of front extension and associated alterations
Recommending Officer:	Elenya Jackson

DECISION – FULL CONDITIONAL 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.

Kirsty Nicholls

AUTHORISED OFFICER

Date: 4-JUL-2024

OFFICER REPORT

Site Description

The application relates to A K Superstore, 4, Battye Street, Dewsbury, WF13 1PH

The site is a small retail unit which occupiers a corner plot on Battye Street. The property is marginally set back from Battye Street by a canopy which currently houses an area for additional stock associated with the unit.

The surrounding area is mixed use, the property is an end of terrace and other properties in the row are residential in nature. However, there is a mosque to the north west and a primary school to the west.

The property resides in a high risk coal area.

Description of Proposal

This application has been received for the erection of a front extension and associated alterations.

Officers have clarified with the agent how the structure would be built and it is confirmed that there would be no ground works in association with the unit and that it would utilise the existing canopy frame.

The proposal would extend 2m beyond the principal elevation of the building, feature a lean to roof and have a maximum height of 4.1m.

Relevant Planning History

2007/92513 - Erection of rear extension with balcony, formation of canopy and external shelving - Conditional full permission

2009/91565 - Erection of illuminated sign - Advertisement consent granted.

Representations

The application was advertised by neighbour notification letters, which expired on 17/06/2024.

No representations have been received.

Negotiations

Officers requested clarification regarding whether or not there were groundworks required to support the application. It was confirmed that there are no ground work as the proposal would utilise the existing canopy frame. As a result, the coal authority have not been consulted on the application.

Consultation Responses

No formal consultations deemed necessary.

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 unallocated on the Kirklees Local Plan.

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.

Kirklees Local Plan Policies

- LP 1 – Achieving sustainable development
- LP 2 – Place shaping
- LP13 – Town Centres
- LP 21 – Highways and access
- LP 22 – Parking
- LP 24 – Design
- 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, and 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 12 – Achieving well-designed and beautiful places

Assessment
The following matters are considered in the assessment below –

1) Principle of development

1) Impact on visual amenity
2) Impact on residential amenity
3) Impact on highway safety
4) Other matters
5) Representations
6) Negotiations
7) Conditions
8) Conclusion

1 – Principle of development:
Chapter 2 of the NPPF introduces the presumption in favour of sustainable development, which is the focus of policy LP1 of the Kirklees Local Plan (KLP). This policy stipulates that proposals that accord with policies in the KLP will be approved without delay, unless material considerations indicate otherwise.

Policy LP24 of the KLP is the overarching policy in relation to the design of all proposals, requiring them to respect the appearance and character of the existing development in the surrounding area as well as to protect the amenity of the future and neighbouring occupiers, to promote highway safety and sustainability. These considerations, along with others, are addressed in the following sections in this report.

The application relates to a site currently in use for retail purposes. The site would be retaining its existing use and the proposed extension would be ancillary to the host building.

Chapter 6 of the NPPF sets out how decision should help create the conditions in which businesses can invest, expand and adapt.

The proposed development would not result in additional retail floor space. The site is located outside of a town or local centre and no sequential test nor Impact Assessment information has been provided with the application. However, the proposal would relate to an existing retail unit to enclose the existing floor space and as per LP13, this would be unnecessary in this instance. The proposal is therefore considered to be acceptable in this regard.

In this case, the principle of development is considered acceptable, and the proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety.

2 –Impact on visual amenity
The scheme would be visible from the street scene due to the proposal altering the front elevation of the site and enclosing the existing canopy. The proposal would be single storey in scale, not increase the dimensions of existing development on site and use materials consistent with the existing palette.

The proposal is considered to be subservient to the host property in terms of its scale and design and is considered to have an acceptable impact on the building in terms of visual amenity. When taking this into consideration, the impact on the host building is considered acceptable.

Having taken the above into account, the proposed enclosure of the existing canopy and additional alterations would not cause any significant harm to the visual amenity of either the host building or the wider street scene complying with Policy LP24 of the Kirklees Local Plan (a) in terms of the form, scale and layout and (c) as the proposal would form a subservient addition to the property in keeping with the existing building.

3 – Impact on residential amenity:
Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account policy LP24 c), which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers.

The proposal would not increase the footprint of existing development on site and would utilise the existing canopy frame. Therefore, no significant issues would arise regarding overshadowing/loss of light or overbearing for neighbouring residents.

Having assessed the above, the proposals are considered to not result in any adverse impact upon the residential amenity of any surrounding neighbouring occupants, thereby complying with policy LP24 of the KLP and chapter 12 of the NPPF

4 – Impact on highway safety:
The proposal would enclose the existing canopy associated with the unit and would not create any additional floor space.

Therefore, the proposal would not represent any additional harm in terms of highway safety as it would not result in the displacement of vehicles onto the highway and as such complies with Policy LP22 of the Kirklees Local Plan along with Key Design Principles 15 & 16 of the House Extensions and Alterations SPD.

5– Other matters:

Carbon Budget
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.

The application relates to the alterations to support an existing retail unit. As such, no special measures were required in terms of the planning application with regards to carbon emissions. However, there are controls in terms of Building Regulations which will need to be adhered to as part of the construction process which will require compliance with national standards.

Coal Mining Legacy
The site is within a High Risk Coal Area however no additional ground works are proposed due to the application being in relation to an existing front canopy extension. However, in the event that planning permission is approved, a standard condition and note is recommended advising the applicant of how to contact The Coal Authority.

6 – Representations:
N/A

7 – Negotiations:
Clarification was requested by officers in terms whether or not ground works were to be undertaken to support the development.

8 – Proposed conditions
Along with the standard timescale condition, which is a requirement of Section 91 of the Town and Country Planning Act 1990, it is considered appropriate to add the following conditions.

Accordance with the approved plans to ensure the development is carried out in line with the officer's assessment.

9 – 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 for the erection of front extension and associated alterations at A K Superstore, 4, Battye Street, Dewsbury, WF13 1PH 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: 2024/91142
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 with Policy LP24 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

3. In the event that contamination, or the presence of coal not previously identified by the developer prior to the grant of this planning permission is encountered during the works, all works 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 in the affected area shall not recommence until either (a) a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy.

Following completion of any measures identified in the approved Remediation Strategy a Verification Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as that part of the site has been remediated in accordance with the approved Remediation Strategy and a Verification Report in respect of those works 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. 183 and 184 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 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.*

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: The granting of planning permission does not override any private legal rights or consents that may be required. It is the responsibility of the applicant / developer to ensure that all appropriate consents are in place prior to any development commencing; during the period of construction existing access for neighbouring properties is maintained; and no damage is caused to the access driveway or surrounding properties.

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

07.30 and 18.30 hours, Mondays to Fridays
08.00 and 13.00hours, Saturdays
With no working Sundays or Public Holidays
In some cases, different site specific hours of operation may be appropriate. Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction/ sites by serving a notice. This notice can specify the hours during which the works may be carried out.

Plans and specifications schedule: -

Plan Type	**Reference**	**Date Received**
Location Plan		7.05.2024
Existing plans	AT/24/001	7.05.2024
Proposed Elevations	AT/24/002	7.05.2024

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 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.

Clarification was requested by officers in terms whether or not ground works were to be undertaken to support the development.