

# **KIRKLEES METROPOLITAN COUNCIL INVESTMENT & REGENERATION SERVICE**

## **DEVELOPMENT MANAGEMENT**

**Town and Country Planning Act 1990 (as amended) – SECTION 73**

### **DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS TO CARRY OUT DEVELOPMENT WITHOUT COMPLIANCE WITH PLANNING CONDITIONS PREVIOUSLY ATTACHED**

|                       |                                                                                                                                                                                                                  |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Reference No:         | <b>2024/70/91381/W</b>                                                                                                                                                                                           |
| Site Address:         | Land south of railway line, Scar Lane, Milnsbridge, Huddersfield, HD3 4PN                                                                                                                                        |
| Description:          | Variation of condition 2 (plans) of previous permission 2022/91789 for erection of four industrial units for E(g)(iii) (light industry) use with associated parking and turning facilities with 10 storage units |
| Recommending Officer: | Katie Chew                                                                                                                                                                                                       |

**DECISION – Section 73 Variation of Condition – Approve (subject to previous Section 106 agreement)**

**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.**

*Victor Grayson*

**AUTHORISED OFFICER**

Date: 23/09/2025

## **Officer Report:**

### **Site Description:**

Land south of railway line, Scar Lane, Milnsbridge, Huddersfield, HD3 4PN

The application site measures approximately 0.66ha and is historically associated with the adjacent railyard. The site is currently vacant land with areas of overgrowth and self-seeded trees. The past use is evidenced by a derelict coal drop within the site, adjacent to the railway line which runs along the entirety of the north boundary. Near the site the railway line crosses over a Grade II listed viaduct to the east.

The site is split into two parts by its topography. To the west, the larger portion of the site, is a lower-level flat area. To the east, up an existing banking, is a smaller and higher-level plateau. The site is accessed to the south, onto Scar Lane. The access is across from the junction onto Britannia Road. The access is existing and currently serves commercial units to the west of the site.

Further west is the former railway yard, which is now an industrial estate, the 'Old Railway Good Yard', hosting several units of modern industrial buildings. To the east, and flanking the entrance, are residential units comprising terrace rows. The east dwellings are accessed from Royal Terrace Road. The site is within Milnsbridge Conservation Area.

### **Description of Proposal:**

The application seeks consent for the variation of condition 2 (plans) of previous permission 2022/91789 for erection of four industrial units for E(g)(iii) (light industry) use with associated parking and turning facilities with 10 storage units.

Condition 2 of application 2022/91789 states the following:

*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 Policies LP1, LP2, LP3, LP8, LP9, LP20, LP21, LP22, LP24, LP28, LP30, LP32, LP33, LP35, LP51, LP52 and LP53 of the Kirklees Local Plan and Chapters 2, 4, 6, 9, 11, 12, 14, 15 and 16 of the National Planning Policy Framework.*

The proposed alterations include the removal of seven additional trees than previously approved under application 2022/91789. This is required as a number of trees are said to be growing along the boundary line to the east of the access into the site, where the 1.8m high green palisade fence is to be erected. These trees are therefore proposed to be removed to allow for the

proposed fence to be installed. The proposals also include the planting of 22 additional trees within the site. These are to be located along the western boundary of the site, adjacent to unit 1, and on either side of the access leading up to the level plateau towards units 5 and 6.

**Officer note:** It is noted that during the process of this planning application, trees T6 to T13 as referenced within the Arboricultural Method Statement (ref: 211008 MS) have now been removed. An addendum to Arboricultural Method Statement Reference 2110008 MS has been provided to outline these changes.

### **History of negotiations/amendments received**

Amendments have been sought in respect of the submission of a revised Landscape Management Plan and Landscape Phasing plan, as both of these documents show the trees to be removed as still being retained. Therefore, for consistency, officers requested revised documents to be provided to the council. An addendum to the Arboricultural Method Statement has also been provided.

### **Relevant Planning History**

2024/91517 – Deemed application via enforcement appeal APP/Z4718/C/24/3345073 for change of use to wood processing yard. Pending decision.

2022/91789 – Erection of four industrial units for E(g)(iii)(light industry) use with associated parking and turning facilities with 10 storage units. Approved 14/03/2024.

2021/91079 – Reserved Matters application pursuant to outline permission 2019/90373 for erection of four industrial units for B1c (light industry) use with associated parking and turning facilities. Withdrawn/Invalid 24/03/2021.

2020/92434 – Works to trees within a conservation area. Approved 01/09/2020.

2020/90202 – Work to tree within a conservation area. Approved 02/03/2020.

2019/90373 – Outline application for the erection of four industrial units for B1c (light industry) use with associated parking and turning facilities. Approved 24/10/2019.

2010/93486 – Change of use and alterations to convert existing coal chutes to form seven dwellings and outline application for erection of four dwellings. Approved 20/12/2011.

### **Representations**

The application has been advertised as a major development within a conservation area, via site notices and through neighbour letters to properties bordering the site, along with being advertised within a local newspaper. This is in line with the council's adopted Statement of Community Involvement.

The application was amended during its lifetime and a period of re-consultation via neighbour letters, was undertaken. These were sent to all neighbouring residents.

The end date for receiving public comments was 20/03/2025.

No public comments were received.

### **Consultation Responses**

**KC Trees** – Comments received 30/05/2024. No objections subject to the planting of two more replacement trees within the site to mitigate the loss of one Category B tree which is to be removed.

**Officer note:** Following receipt of the above comments it came to light that additional tree removal (three additional trees) was required along the eastern boundary of the entrance into the site. The applicant's agent therefore sought to submit a revised Landscape Layout showing the full tree removal (seven additional trees since original permission). Additional tree planting was also shown, resulting in the planting of 22 additional trees when compared with the original permission. Whilst KC Trees requested a table to be shown on plan identifying the species and size of the trees to be planted, they raised no objections to the proposals.

### **Local Ward Members**

No comments received.

### **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 27/02/2019).

The application site is located within a Priority Employment Area and falls within the Milnsbridge Conservation Area. To note that to the east of the site is a Grade II listed viaduct.

### **Kirklees Local Plan (LP):**

- **LP1 – Presumption in Favour of Sustainable Development**
- **LP2 – Place Shaping**
- **LP3 – Location of New Development**

- **LP8 – Safeguarding Employment Land and Premises**
- **LP9 – Supporting Skilled and Flexible Communities and Workforces**
- **LP20 – Sustainable Travel**
- **LP21 – Highways and Access**
- **LP22 – Parking**
- **LP24 – Design**
- **LP28 – Drainage**
- **LP30 – Biodiversity & Geodiversity**
- **LP32 – Landscape**
- **LP33 – Trees**
- **LP35 – Historic Environment**
- **LP51 – Protection and Improvement of Local Air Quality**
- **LP52 – Protection and Improvement of Environmental Quality**
- **LP53 – 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) 2024 (updated 2025), and the Planning Practice Guidance Suite (PPGS) first launched 06/03/2014, 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. Most specifically in this instance, the below chapters are of most relevance:

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 6 – Building a strong, competitive economy
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed 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

### **Other Guidance Documents:**

- Highway Design Guide SPD
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Planning Applications Climate Change Guidance (2021)
- Biodiversity Net Gain Technical Advice Note (2021)
- Visibility Guidance Note (2020)

- Milnsbridge Conservation Area Appraisal

## **Assessment**

### **Scope of Application and Principle of Development**

This application is made under Section 73 of the Town and Country Planning Act 1990, which allows for the 'determination of applications to develop land without compliance with conditions previously attached'. In addition to removing conditions, Section 73 enables the varying of a condition's wording. The effect of a granted Section 73 application is the issuing of a fresh planning permission. Therefore, all previously imposed conditions should be retained if they remain relevant. The time limit for development to commence cannot be extended through a Section 73.

The starting point for a Section 73 application is the previously-granted planning permission, which must carry significant material weight. The principle of erecting of four industrial units for E(g)(iii) (light industry) use, associated parking and turning facilities, and 10 storage units was established at the site under permission 2022/91789. As such, it is considered that the principle of development remains established by the way of the previous application. The following assessment will therefore deal with the merits of the proposed variations only.

### **Impact on Visual Amenity and Heritage Assets**

The application seeks to vary condition 2 relating to the approved plans and specifications. Alterations include the removal of seven additional trees than previously approved under application 2022/91789. This is required as a number of trees are said to be growing along the boundary line to the east of the access into the site, where the 1.8m high green palisade fence is to be erected. These trees are therefore proposed to be removed to allow for the proposed fence to be installed. The proposals also include the planting of 22 additional trees within the site, in accordance with comments received from KC Trees during the course of this application.

Whilst it is acknowledged that within previously approved application 2022/91789, several trees were to be retained along the eastern boundary of the access into the site and this would have helped to soften the appearance of the proposed development and the green palisade fencing which is to be erected around the boundary of the site, officers do not consider the removal of these trees, of which the majority are identified as being category U trees (low quality), to be detrimental overall. In addition, their loss balanced against the proposed use of the site, the improved access arrangements and need for the 1.8m high fencing in this location is considered to be sufficient to outweigh any concerns in regard to visual amenity. Furthermore, 22 replacement trees are proposed to be replanted within the site to account for the loss of the seven additional trees since the original approval, and this is deemed to be sufficient and acceptable in this instance.

It is also noted that the application site is located within Milnsbridge Conservation Area and is in close proximity to a Grade II listed viaduct (to the northeast). Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 are therefore relevant, as are policies LP1, LP2, LP24 and LP35 of the Kirklees Local Plan, Chapters 12 and 16 of the NPPF.

In the relevant appraisal for the Milnsbridge Conservation Area, section 6 (Open Space and Tree Coverage) states “Milnsbridge contains few trees and few line the streets of Milnsbridge, reflecting the functional character of the settlement. The Huddersfield Narrow Canal and River Colne are the two exceptions where tree cover is prevalent”. Trees at the current application site are not noted as being a contributor to the character and appearance of the conservation area.

The Grade II listed viaduct derives much of its significance from its height (including its height relative to surrounding buildings), location in the valley, visibility/prominence, use, materials, design and age. Its relationships with trees do not greatly contribute to its significance.

Given the nature of the amendments and for the reasons outlined above and the existing context of the area which is heavily industrial and commercial, officers do not consider the removal of these additional trees to have a detrimental impact on the character and appearance of the conservation area, or the setting and significance of the Grade II listed viaduct, given their location towards the entrance of the site.

It is therefore considered that the proposals would still be in accordance with policies LP1, LP2, LP24 and LP35 of the Kirklees Local Plan, Chapters 12 and 16 of the NPPF and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Trees and Landscaping**

Policy LP33 of the Kirklees Local Plan highlights that Local Planning Authorities should not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity.

Given the nature of the proposed amendments, KC Trees were consulted. They noted that the removal of the additional trees was acceptable, and there were no objections to this removal as the majority were Category U trees. To balance out the loss of these trees it was requested that additional planting be provided throughout the site, and an additional 22 trees have been proposed accordingly. This is considered to be acceptable and therefore officers have no objections in respect of trees. The planting of the additional trees will be secured via a recommended condition.

In terms of landscaping, the applicant has submitted a revised Landscape Management Plan, Proposed Landscape Layout Plan and a Landscape Phasing Plan, all of which reflect the removal of the additional seven trees.

These plans continue to outline the works proposed throughout the site which includes the provision of 2m high acoustic fencing to the south of the site directing adjacent to the back garden of 18 Royal Terrace, an Amco car barrier along the northern boundary of the site between Units 5 and 6, and a 1.8m high green palisade fence around the entire boundary of the site, and permeable gravel to the side of Unit 6.

Several trees are to be retained, with the removal of a total of 16 trees to help facilitate the development. 35 replacement trees are proposed to be planted throughout the site, of a varying size and species, to outweigh the loss.

The proposed amendments are not considered to detract from the previous landscaping arrangements approved, and as they are now included within the aforementioned plans, should be implemented and maintained as such.

### **Other Matters**

With regard to other matters that were assessed under the previous planning application such as residential amenity, employment considerations, highway safety, biodiversity, drainage, adjacent railway infrastructure, land contamination, climate change and air quality, the proposal is unchanged in relation to these aspects and any conditions imposed in regard to these matters to make the development acceptable will be repeated as part of this application.

### **Conditions Review**

As the application is a Section 73 application to vary conditions, it is necessary to re-impose all conditions which remain relevant.

The application form states that the development has not yet commenced on site and therefore condition 1 is still relevant (although its wording will need to be amended to refer to a specific date). Whilst the plans have been updated within the plans table to reflect the amendments applied for, the wording of condition 2 will remain unchanged. Furthermore, as no discharge of conditions have been applied for at the site, all other conditions/informatives remain as previously approved albeit condition 11 has been updated to incorporate the Addendum to the Arboricultural Method Statement, which outlines that the trees proposed to be removed on the site have already been taken down during the course of this application. One new condition is also to be included to ensure that the 2 replacement trees are planted within a reasonable timeframe. NPPF paragraphs referred to in the conditions have been updated.

### **Planning Obligations**

If approved, this application will result in a new standalone planning permission being issued. As contributions have already been dealt with under the parent application (2022/91789), it is important to assess whether a legal

mechanism is required to tie this application back to the previous Section 106 agreement dated 12/03/2024.

In this instance, it is noted that the proposed amendments would not alter any of the previously-agreed contributions. Furthermore, the previous Section 106 agreement included the following clause (page 6):

*In the event that an application is made in respect of the development pursuant to Section 73 of the TCPA 1990 ("Section 73 Application") and planning permission is granted (whether or not on appeal) in respect of the Section 73 Application ("Section 73 Permission") and the Council is satisfied that no revised planning obligations are required as a result of the Section 73 Permission then the definition of "Planning Permission" in this Deed shall apply to and remain in full force in respect of that Section 73 Permission without the need for a further agreement to be entered into pursuant to Section 106 or 106a of the Act.*

*Nothing in this Clause shall fetter the discretion of the Council in determining any planning application for a Section 73 Consent and the appropriate planning obligations required in connection with the determination of the same.*

For this reason, and given that the planning obligations would remain unchanged under this application, a Deed of Variation or further legal agreement is not considered necessary in this case.

## **Conclusion**

This is a Section 73 Variation of Condition application vary condition 2 (plans). This amendment is required to accommodate minor changes to a previously-approved scheme, to allow the removal of, and planting of, additional trees within the site. As set out above, in determining a Section 73 application, the Local Planning Authority must only consider the 'disputed' condition that is the subject of the application – it is not a complete re-consideration of the application. As such, it is a consideration of condition 2 only. As detailed within the report, given the minor modifications sought by this proposal, which is reflected in the plan numbers associated with condition 2, the minor variation is considered to be acceptable.

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. The proposal would remain in accordance with the development plan and there are no material considerations to indicate otherwise. The development would therefore constitute sustainable development, and it is recommended for approval.

**Recommendation:** Grant Variation of Condition.

**Report Dated:** 03/09/2025.

Decision Authorisation – Delegated Powers

Application Number – 2024/91381

Officer Recommendation – Grant Variation of Condition

**Conditions and Reasons:**

1. The development hereby permitted shall be begun prior to 14/3/2027.

**Reason:** Pursuant to the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

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 Policies LP1, LP2, LP3, LP8, LP9, LP20, LP21, LP22, LP24, LP28, LP30, LP32, LP33, LP35, LP51, LP52 and LP53 of the Kirklees Local Plan and Chapters 2, 4, 6, 9, 11, 12, 14, 15 and 16 of the National Planning Policy Framework.

3. Before construction work commences, a noise assessment report by a suitably competent person shall be submitted to and approved in writing by the Local Planning Authority. The report shall include:

- a) An assessment of all of the noise emissions from the proposed development;
- b) Details of existing background and predicted future noise levels at the boundary of the nearest noise sensitive premises; and
- c) A written scheme of how the occupants of the above-mentioned noise sensitive premises will be protected from the noise from the proposed development including details of all necessary noise attenuation.

The development shall not be brought into use until all works comprised within the measures specified in the approved report have been carried out in full and such works shall be thereafter retained.

**Reason:** This is a pre-commencement condition to ensure that the proposed use(s) does not give rise to the loss of amenity to nearby residential properties, by reason of noise, to accord with the aims of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

4. The use hereby permitted shall not be open to customers outside the hours of:

- 07:30 hours to 19:00 hours Mondays to Fridays

- 07:30 hours to 13:00 hours Saturdays
- And there shall be no deliveries to, or dispatches from the premises outside these hours or on Sundays or Bank Holidays

**Reason:** To ensure that the proposed use(s) does not give rise to the loss of amenity to nearby residential properties, by reason of noise or disturbance at unsociable hours, to accord with the aims of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

5. Groundworks shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.

**Reason:** This is a pre-commencement condition to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraphs 196 and 197 of the National Planning Policy Framework.

6. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition (5), groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.

**Reason:** This is a pre-commencement condition to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraphs 196 and 197 of the National Planning Policy Framework.

7. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition (6) further groundworks shall not commence until a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

**Reason:** This is a pre-commencement condition to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraphs 196 and 197 of the National Planning Policy Framework.

8. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition (7). In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report is identified or encountered on site, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within two 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 paragraphs 196 and 197 of the National Planning Policy Framework.

9. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a 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 paragraphs 196 and 197 of the National Planning Policy Framework.

10. Prior to the installation of any external artificial lighting, a lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following information:

- a) The proposed hours of operation of the lighting;
- b) Details of the colour of the lights to be used (to avoid any confusion with the signalling arrangements on the adjacent railway);
- c) The location and specification of all of the luminaires;
- d) The proposed design level of maintained average horizontal illuminance for the areas that needs to be illuminated;
- e) The measures that will be taken to minimise or eliminate glare and stray light arising from the use of the lighting that is caused beyond the boundary of the site; and
- f) The methods of switching and controlling the lighting so that it is only operated at the permitted times and at times when it is required.

The external artificial lighting shall be installed and operated thereafter in accordance with the approved scheme.

**Reason:** To safeguard the amenities of the occupiers of nearby properties, to eliminate potential dazzling for train drivers using the adjacent railway, and to promote sustainable development in accordance with Chapters 2, 9 and 15 of the NPPF and Policies LP19 and LP24 of the Kirklees Local Plan.

11. The development shall be completed in accordance with the advice and directions (recommendations) contained within the Arboricultural Method Statement, dated 15/10/2021 (ref: 211008 MS), to be read alongside the Addendum to the Arboricultural Method Statement, received 03/09/2025. These shall be implemented and maintained throughout the construction phase of the development and retained as such thereafter.

**Reason:** To protect trees in the interests of visual amenity and to accord with the requirements of Policy LP33 of the Kirklees Local Plan and advice within Chapter 15 of the National Planning Policy Framework.

12. The approved Landscape Management Plan dated March 2021 (ref: 211-LMP-RM-01 (Rev B)), shall from its completion, be maintained for a period of five years. If, within this period, any tree, shrub or hedge shall die, become diseased or removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

**Reason:** To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and to accord with Chapter 15 of the National Planning Policy Framework and Circular 06/2005 – Biodiversity and Geological Conservation – Statutory obligation and their impact within the planning system.

13. Prior to development commencing (including any groundworks) a Construction Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the Local Planning Authority. The CEMP shall describe in detail the actions that will be taken to minimise adverse impacts on occupiers of nearby properties and highway safety by effectively controlling:

- Noise and vibration arising from all construction related activities. This should also include suitable restrictions on the hours of working on the site including times of deliveries;
- Point(s) of access for construction traffic;
- Vehicle sizes and routes, times of vehicle movements, identify the location of any HGV waiting areas and include details of the management of said areas;
- Dust arising from all construction related activities, which should include measures to monitor and record the emissions of dust during construction;
- Signage;
- Any phasing of development;
- Site waste management, including details of recycling/disposing of waste resulting from construction works;
- Measures to be taken to minimise the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site, including the provision of adequate wheel washing facilities within the site and street sweeping;
- The parking of vehicles of site operatives and visitors;
- Loading and unloading of plant and materials;
- Storage of plant and materials used in constructing the development; and
- Artificial lighting used in connection with all construction related activities and security of the construction site.

A communications plan detailing the responsible person, their contact details and how this will be communicated to local residents, and the Local Planning Authority must be included. The agreed plan shall be adhered to throughout

the construction of the development and no change therefrom shall take place without the prior written consent of the Local Planning Authority.

**Reason:** This is a pre-commencement condition to safeguard the amenities of the occupiers of nearby properties, to ensure the highway is not obstructed and given the restricted nature of the site to ensure safe access for heavy vehicles into the site, in the interests of highway safety and to accord with Chapters 9, 12 and 15 of the National Planning Policy Framework and Policies LP21, LP24 and LP52 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure measures to avoid obstruction to the wider highway network, to avoid increased risks to highway safety, and to prevent or minimise amenity impacts are devised and agreed at an appropriate stage of the development process.

14. Prior to development commencing, a Stage 1 Safety Audit and Designer's Response for the proposed site access and associated alterations covering all aspects of work including those on Scar Lane, shall be submitted to, and approved in writing by, the Local Planning Authority. Before any of the hereby approved buildings are brought into use, the alterations identified within the approved Stage 1 Safety Audit and Designer's Response shall be implemented and retained thereafter.

**Reason:** This is a pre-commencement condition to ensure that suitable access arrangements are implemented for the development, in the interest of the safe and efficient use of the Highway, in accordance with Policy LP21 of the Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework.

15. Development shall not commence until a scheme detailing foul, surface water and land drainage, (including off site works, outfalls, existing drainage to be maintained/diverted/abandoned) has been submitted to and approved in writing by the Local Planning Authority. None of the buildings shall be occupied until such approved drainage scheme has been provided on the site to serve the development or each agreed phasing of the development to which the dwellings relate and retained thereafter.

**Reason:** To deliver effective sustainable systems that will be operated, maintained and managed for the lifetime of the development that it will serve, and to ensure that surface water flows away from the adjacent railway, in accordance with Policies LP19 and LP28 of the Kirklees Local Plan and Chapters 9 and 14 of the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure that all site drainage measures are agreed at an appropriate stage of the development process.

16. The site shall be developed with separate systems of drainage for foul and surface water on and offsite, details of which shall be submitted to and approved in writing by the Local Planning Authority prior to development commencing. There shall be no pump stations used for the discharge of foul and surface water from the site.

**Reason:** To prevent and manage flooding and drainage issues during the construction period, in accordance with Policies LP27 and LP28 of the

Kirklees Local Plan as well as Chapter 14 of the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure that all site drainage measures are agreed at an appropriate stage of the development process.

17. Development shall not commence until a scheme restricting the rate of surface water discharge from the site to a maximum of *3.5 litres per second to the combined sewer in Scar Lane* has been submitted to and approved in writing by Local Planning Authority. The drainage scheme shall be designed to attenuate flows generated by the critical 1 in 30-year storm event as a minimum requirement. Volumes generated by storms greater than the 1 in 30-year critical event, up to and including the critical 1 in 100-year event with an appropriate allowance for climate change can be stored on site in areas to be approved in writing by the Local Planning Authority. The scheme shall include a detailed maintenance and management regime for the storage facility including the flow restriction. There shall be no piped discharge of surface water from the development, and no part of the development shall be brought into use until the flow restriction and attenuation works comprising the approved scheme have been completed. The approved maintenance and management scheme shall be implemented thereafter.

**Reason:** To reduce the risk of flooding to the proposed development and future users, in accordance with Policy LP27 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure that all site drainage measures are agreed at an appropriate stage of the development process.

18. Development shall not commence until a scheme, detailing temporary surface water drainage for the construction phase (after soil and vegetation strip) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail:

- Phasing of the development and phasing of temporary drainage provision;
- Methods of preventing silt, debris and contaminants entering existing drainage systems and watercourses and how flooding of adjacent land (in particular the adjacent railway) is prevented.

The temporary works shall be implemented in accordance with the approved scheme and phasing. No phase of the development shall be commenced until the temporary works approved for that phase have been completed. The approved temporary drainage scheme shall be retained until the approved permanent surface water drainage system is in place and functioning in accordance with written notification to the Local Planning Authority.

**Reason:** To prevent and manage flooding and drainage issues during the construction period, in accordance with Policies LP19, LP27 and LP28 of the Kirklees Local Plan as well as Chapters 9 and 14 of the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure that all temporary site drainage measures are agreed at an appropriate stage of the development process.

19. Prior to the installation of any external artificial lighting, a 'lighting design strategy for biodiversity' shall be submitted to and approved in writing by the local planning authority. The strategy shall:

- a) Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
- b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

**Reason:** To avoid indirect impacts to bats and other local species in the interest of ecological mitigation, to comply with Policy LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

20. Prior to their use, samples/details of all the external facing and roofing materials to be used within the industrial and storage units hereby approved, shall be submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall not be brought into use until it is completed in accordance with the approved scheme which shall be retained thereafter.

**Reason:** To ensure the satisfactory appearance of the development on completion and to preserve and enhance the setting and significance of the Milnsbridge Conservation Area and adjacent heritage assets, to accord with Policies LP24 and LP35 of the Kirklees Local Plan and Chapters 12 and 16 of the National Planning Policy Framework.

21. No site clearance works shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the site for active birds' nests immediately before the site is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation shall be submitted to and approved in writing by the Local Planning Authority.

**Reason:** To prevent significant ecological harm in respect of direct impacts to birds, their eggs, nests and young and to accord with policy LP30 of the Kirklees Local Plan and the requirements of Chapter 15 of the National Planning Policy Framework.

22. The development shall be carried out strictly in accordance with the Ecological Design Strategy, by Whitcher Wildlife Ltd. Ecological Consultations, Report Ref: 210221/EDS/Rev 1, dated 17/09/2021, and shall be implemented in the first planting and seeding seasons following the first

use of the buildings hereby approved, or on completion of the development, whichever is the sooner. All features shall be retained in that manner thereafter.

**Reason:** To ensure the development hereby permitted provides ecological enhancement measures sufficient to provide a biodiversity net gain in accordance with Policy LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

23. Development shall not commence until a construction methodology has been submitted to and approved in writing by the Local Planning Authority. The construction methodology shall demonstrate consultation with the Asset Protection Project Manager at Network Rail. The development shall thereafter be carried out in accordance with the approved construction methodology unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** In the interest of amenity and safety, including the operational needs and integrity of the adjacent railway, to comply with Policy LP19 of the Kirklees Local Plan and Chapters 9 and 12 of the National Planning Policy Framework.

This pre-commencement condition is necessary given the need to secure appropriate arrangements prior to operations taking place on site.

24. Development shall not commence until the hereby approved 1.8m high green palisade fence is erected around the boundary of the site, in accordance with details shown within approved drawing no. 211-PL-01 Rev B 'Proposed Landscape Layout'. Once erected this shall be retained and maintained for the lifetime of the development.

**Reason:** In the interests of health and safety and to reduce the likelihood of trespass onto the adjacent railway line, to accord with Chapters 8, 9 and 12 of the National Planning Policy Framework and Policies LP19, LP21 and LP24 of the Kirklees Local Plan.

This pre-commencement condition is necessary given the need to secure the site prior to operations taking place on site.

25. Before first occupation, a scheme detailing the dedicated facilities that will be provided at the site for charging electric vehicles and other ultra-low emission vehicles shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall meet the requirements of the current West Yorkshire Low Emission Strategy (WYLES) document. The approved dedicated facilities for charging electric vehicles shall be installed prior to occupation and retained for use thereafter.

**Reason:** In the interest of supporting and encouraging low emission vehicles, in the interest of air quality enhancement, to comply with the aims and objectives of Policies LP20, LP24 and LP47 of the Kirklees Local Plan, Chapters 2, 9 and 15 of the National Planning Policy Framework and the West Yorkshire Low Emission Strategy (WYLES).

26. Prior to commencement of superstructure works, details of all hard landscaping, including the retention of the existing stone setts towards the entrance of the site shall be submitted to and approved in writing by the Local Planning Authority. No part of the development hereby approved shall be

occupied until all hard landscaping has been implemented in accordance with the approved details.

**Reason:** In the interests of visual amenity and to protect and enhance the setting of the Milnsbridge Conservation Area and adjacent heritage assets, and to accord with Policies LP24 and LP35 of the Kirklees Local Plan and Chapters 12 and 16 of the National Planning Policy Framework.

27. Notwithstanding the submitted information and plans, the stone boundary wall located at the site entrance shall be retained. Should the boundary wall not be able to be retained in its entirety, the wall shall be rebuilt to match the layout and materials of the existing boundary wall, utilising reclaimed stone from the existing wall where possible.

**Reason:** To ensure the satisfactory appearance of the development on completion and to preserve and enhance the setting and significance of the Milnsbridge Conservation Area and adjacent heritage assets, to accord with Policies LP24 and LP35 of the Kirklees Local Plan and Chapters 12 and 16 of the National Planning Policy Framework.

28. Notwithstanding the submitted plans, prior to the installation of the hereby approved Armco barrier and acoustic fencing, details of their appearance, location and elevations shall be submitted to and approved in writing by the Local Planning Authority. The barriers/fencing shall be installed in accordance with the approved details and retained as such thereafter.

**Reason:** To ensure the satisfactory appearance of the development on completion and to preserve and enhance the setting and significance of the Milnsbridge Conservation Area and adjacent heritage assets, as well as in the interests of residential amenity and for the safety, operational needs and integrity of the adjacent railway, this is to accord with Policies LP19, LP24 and LP35 of the Kirklees Local Plan and Chapters 9, 12 and 16 of the National Planning Policy Framework.

29. Within eight months of the date of this permission, the 35 trees to be planted as shown on hereby approved drawing no. 211-PL-01 Rev A, received 02/09/2025, should be planted in accordance with BS8545. Within two months of the replacement trees being planted, written and/or photographic evidence shall be provided to the Local Planning Authority to demonstrate that the required replacement trees have been planted in accordance with the conditions of this decision notice. Any replacement trees which are damaged, die, removed, uprooted or destroyed within five years of planting, shall be replaced by a new tree(s) of the same species, size and at the same place, to the satisfaction of the Local Planning Authority.

**Reason:** To safeguard future tree cover and amenity, and to ensure that the planting is carried out in accordance with good Arboricultural practice, in accordance with Policy LP33 of the Kirklees Local Plan and Chapter 15 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 2019. 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*

**NOTE:** All noise assessments should be carried out by a competent person. Developers may wish to contact the Association of Noise Consultants <http://www.association-of-noise-consultants.co.uk/> (020 8253 4518) or the Institute of Acoustics <http://www.ioa.org.uk> (0300 999 9675) for a list of members.

**NOTE:** Where trees and shrubs are to be planted adjacent to boundary, they should be positioned at a minimum distance greater than their height at maturity from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. Any hedge planted adjacent to the railway boundary fencing for screening purposes should be placed so that when fully grown it does not damage the fencing, provide a means of scaling it, or prevent Network Rail from maintaining its boundary fencing. Below is a list of species that are acceptable and unacceptable for planting in proximity to the railway boundary;

*Acceptable:*

Birch (Betula), Crab Apple (Malus Sylvestris), Field Maple (Acer Campestre), Bird Cherry (Prunus Padus), Wild Pear (Pyrus Communis), Fir Trees – Pines (Pinus), Hawthorn (Cretaeagus), Mountain Ash – Whitebeams (Sorbus), False Acacia (Robinia), Willow Shrubs (Shrubby Salix), Thuja Plicatata “Zebra”.

*Not Acceptable:*

Acer (Acer pseudoplatanus), Aspen – Poplar (Populus), Small-leaved Lime (Tilia Cordata), Sycamore – Norway Maple (Acer), Horse Chestnut (Aesculus Hippocastanum), Sweet Chestnut (Castanea Sativa), Ash (Fraxinus excelsior), Black poplar (Populus nigra var, betulifolia), Lombardy Poplar (Populus nigra var, italica), Large-leaved lime (Tilia platyphyllos), Common lime (Tilia x europea).

**NOTE:** Noisy construction related activities shall not take place outside the hours of:

- 07.30 to 18.30 hours Mondays to Fridays
- 08.00 to 13.00 hours, Saturdays
- With no noisy activities on Sundays or Public Holidays

Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory

nuisance exists or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

**NOTE:** The proposed design levels of illuminance should be shown to be appropriate for the intended use by reference to appropriate guidance. Generally, to minimise problems of glare and stray light from external artificial lighting it should be installed and maintained in accordance with the “Guidance Notes for the Reduction of Obtrusive Light” by the Institution of Lighting Professionals: 2011 [www.theilp.org.uk](http://www.theilp.org.uk) The predicted levels of stray light must not exceed the recommended maximum levels given in Table 2 of this guidance for an Environmental Zone E3.

**NOTE:** The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer (Kirklees Street Scene: 01484 221000) regarding obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution.

**NOTE:** Electric Vehicle Charging Points:

- The electrical supply of the final installation should allow the charging equipment to operate at full rated capacity and the installation must comply with all applicable electrical requirements in force at the time of installation.
- 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 in relation to Approved Document S.

**NOTE:** For the avoidance of doubt, this permission is issued subject to the planning obligations of the previous Section 106 agreement (dated 12/03/2024, ref: 2022/91789).

**Plans and specifications schedule: -**

| Plan Type                  | Reference | Web ID | Date Received |
|----------------------------|-----------|--------|---------------|
| Proposed Landscape Layout  | 211-PL-01 | B      | 03/09/2025    |
| Proposed Landscape Phasing | 211-PL-02 | A      | 03/09/2025    |
| Proposed                   | 211-PL-03 | A      | 18/02/2025    |

|                                                                               |                              |     |            |
|-------------------------------------------------------------------------------|------------------------------|-----|------------|
| Phasing                                                                       |                              |     |            |
| Addendum to Arboricultural Method Statement – Supporting Information          | 211008 MS                    | -   | 03/09/2025 |
| Landscape Management Plan – Supporting Information                            | 211-LMP-RM-01                | B   | 03/09/2025 |
| <i>Received via originally approved full planning application: 2022/91789</i> |                              |     |            |
| Location Plan                                                                 | -                            | -   | 24/05/2022 |
| Site & Location Plans                                                         | 211-PA-01                    | -   | 24/05/2022 |
| Unit 1                                                                        | 1101-DAG-A-05_001            | B   | 28/04/2023 |
| Unit 2                                                                        | 1101-DAG-A-05_002            | B   | 28/04/2023 |
| C1-C10 (Typical Storage Unit)                                                 | 1101-DAG0-A-05_003           | B   | 28/04/2023 |
| Unit 5                                                                        | 1101-DAG-A-05_005            | B   | 28/04/2023 |
| Unit 6                                                                        | 1101-DAF-A-05_006            | B   | 28/04/2023 |
| Site Sections as Proposed                                                     | 1101-DAG-DR-A-05-0010        | B   | 28/04/2023 |
| Site Plan                                                                     | 1101-DAG-SK-A-0200           | B   | 28/04/2023 |
| Lower Level                                                                   |                              |     | 28/04/2023 |
| Intermediate Level                                                            |                              |     | 28/04/2023 |
| Upper Level                                                                   | 1101-DAG-SK-A-0302           | C   | 28/04/2023 |
| Proposed Phasing                                                              | 211-PL03                     | A   | 28/04/2023 |
| Swept Path Analysis                                                           | 4a                           | -   | 24/05/2022 |
| Drainage GA                                                                   | LM22250-DYSE-XX-ZZ-DR-C-1001 | P01 | 25/11/2022 |
| Luminaire Layout and Illuminance Calculation Drawing                          | LSC10356/1                   | -   | 24/05/2022 |
| Tree Constraints Plan at: Scar Lane, Milnsbridge                              | -                            | -   | 24/05/2022 |
| Micro Drainage                                                                | -                            | -   | 01/03/2023 |

|                                                                            |                  |   |            |
|----------------------------------------------------------------------------|------------------|---|------------|
| Report Supporting Information –                                            |                  |   |            |
| Tree Survey Supporting Information –                                       | 90112c           | - | 24/05/2022 |
| Transport Statement Supporting Information –                               | 21126            | 1 | 24/05/2022 |
| Planning Statement and Heritage Impact Assessment Supporting Information – | -                | - | 24/05/2022 |
| Design Access Supporting Information + –                                   | -                | - | 24/05/2022 |
| Arboricultural Method Statement Supporting Information –                   | 211008 MS        | - | 24/05/2022 |
| Invasive Non-Native Species Protocol Supporting Information –              | 210221/Invasive. | - | 24/05/2022 |
| Ecological Design Strategy (EDS) Supporting Information –                  | 210221/EDS/Rev1. | - | 24/05/2022 |
| Ecological Impact Assessment Supporting Information –                      | 180856/EcIA.     | - | 24/05/2022 |
| Urbino (Lighting) Supporting Information LED –                             | -                | - | 24/05/2022 |
| Urbini (Lighting) Supporting Information LED –                             | -                | - | 24/05/2022 |

|                                                   |   |   |            |
|---------------------------------------------------|---|---|------------|
| Supporting Information                            |   |   |            |
| KH15EQ (Lighting) – Supporting Information        | - | - | 24/05/2022 |
| Climate Change Statement – Supporting Information | - | - | 03/05/2023 |

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a preapplication advice service available, complied with the Kirklees Development Management Charter 2024 and otherwise actively engaged with the applicant in dealing with the application. Amendments have been sought in respect of the submission of a revised Landscape Management Plan and Landscape Phasing plan. An addendum to the Arboricultural Method Statement has also been provided.