

**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:	2024/70/91591/E
Site Address:	Land off Bankwood Way, Birstall Retail Park, Birstall, Batley, WF17 9DT
Description:	Variation of conditions 2-6, 15 and 29 of previous permission 2021/92528 for erection of retail development, associated parking, servicing areas and landscaping
Recommending Officer:	William Simcock

DECISION – Variation of Conditions – Approve

**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: 16/05/2025

Officer Report 2024/91591

Land off Bankwood Way, Birstall Retail Park, Birstall, Batley, WF17 9DT

Site Description

The site previously accommodated a collection of office blocks which formed part of the Centre 27 Business Park. The office blocks were demolished several years ago, and the site was cleared and fenced off. There are trees to much of the perimeter of the site.

The site sits within a wider leisure/retail area. There is an office building abutting the northern boundary and commercial buildings to the southwestern boundary. Within the slightly wider vicinity is a cinema and McDonald's restaurant.

The majority of the site is bounded by Bankwood Way and Woodhead Road. There is an existing point of access off Bankwood Way to the northern part of the site, which is shared with an existing office unit (Paradigm House).

Approved Development

As approved under the previous permission 2021/92528, the retail development comprises two separate retail units – one is to be a Lidl supermarket and the other is to be Home Bargains store. The Lidl store would have a gross internal area of 2,231m², with a net sales area of 1,414m². The Home Bargains store would have a gross internal area of circa 2,280m², with a net sales area of 2,014m². The Home Bargains store also includes an associated garden centre to the rear, which would provide an additional 513m² of retail floor space.

The proposed access from Woodhead Road would serve both stores.

The internal layout includes a joint servicing area to the rear of the stores and 174 car parking spaces, including 10 accessible spaces, 9 parent and child spaces and 2 electric vehicle charging spaces. A ramped footpath link from Woodhead Road is not being provided, however, there is pedestrian access from Woodhead Road via pavements.

Areas of landscaping, which would include new tree planting, are proposed to the periphery of the car park. Some tree planting is also proposed within the car park.

Previously-imposed Conditions

The wording of the conditions (of the previous permission 2021/92528) is as follows:

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 LP21 and LP24 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

3. The quantum of gross internal floorspace in Use Class E(a) of the Town and Country Planning (Use Classes) Order 1987 (as amended) within the two retail units hereby approved on the application site, as shown on drawing number 7404-SMR-00-ZZ-DR-A2201-S3 rev. P4, shall not exceed the following:

- Unit 1 – 2,231 sqm
- Unit 2 – 2,280 sqm (plus the associated garden centre of 513 sqm).

Reason: To protect the vitality and viability of Town Centres in accordance with Kirklees Local Plan Policy LP13 Town centre uses and National Planning Policy Framework Chapter 7 Ensuring the vitality of town centres.

4. The net sales area devoted to the sale of convenience and comparison goods, within Use Class E(a) of the Town and Country Planning (Use Classes) Order 1987 (as amended), within the two retail units and associated garden centre (unit 2) hereby approved on the application site, as shown on drawing number 7404 - SMR - 00 - ZZ - DR - A - 2003 - A3 - C2 shall not exceed the following:

Convenience Goods:

- Unit 1 – 1,131 sqm
- Unit 2 – 906 sqm

Comparison Goods:

- Unit 1 – 283 sqm
- Unit 2 – 1,108 sqm
- Unit 2 Garden Centre – 513sqm

Reason: To protect the vitality and viability of Town Centres in accordance with Kirklees Local Plan Policy LP13 Town centre uses and National Planning Policy Framework Chapter 7 Ensuring the vitality of town centres.

5. Neither of the units hereby approved on the application site, as shown on drawing number 7404 - SMR - 00 - ZZ - DR - A - 2003 - A3 - C2, shall be subdivided without the prior written approval of the Local Planning Authority.

Reason: To protect the vitality and viability of Town Centres in accordance with Kirklees Local Plan Policy LP13 Town centre uses and National Planning Policy Framework Chapter 7 Ensuring the vitality of town centres.

6. Prior to commencing of development, a detailed scheme for the provision of the two points of access into the site from Woodhead Road and Bankwood Way in accordance with drawing number 7404-SMR-00-ZZ-DR-A -2008-S3 rev P2 shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include construction specifications, white lining, signing and surface finishes. Unless otherwise approved in writing by the

Local Planning Authority, all the agreed works shall be implemented before any part of the development is first brought into use.

Reason: *In the interests of highway safety and to achieve a satisfactory layout in accordance with Policies LP21, LP24 and LP52 of the Kirklees Local Plan. This pre-commencement condition is necessary to ensure measures to avoid increased risks to highway safety and adverse impacts upon the highway network are submitted and approved at an appropriate stage of the development process.*

15. Prior to the commencement of development (including ground works) a Biodiversity Enhancement and Management Plan (BEMP) shall be submitted to and approved in writing by the Local Planning Authority. The BEMP shall be in accordance with the Biodiversity Metric 2.0 calculations dated 09/11/2021 as already submitted with the planning application and agreed in principle with the Local Planning Authority prior to determination. The BEMP shall provide a minimum of 0.30 habitat units and 1.08 hedgerow units post-development and shall include the following:

- Description and evaluation of features to be managed and enhanced;*
- Extent and location/area of proposed enhancement works on appropriately scaled maps and plans;*
- Ecological trends and constraints on site that might influence management;*
- Aims and Objectives of management;*
- Appropriate management actions for achieving Aims and Objectives;*
- An annual work programme (to cover an initial five-year period capable of being rolled forward over a period of 30 years);*
- Details of the management body or organisation responsible for implementation of the BEMP;*
- Ongoing monitoring programme and remedial measures; and*
- Arrangements for the review and update of the BEMP every five years and its implementation for a minimum of 30 years.*

The BEMP shall include details of the legal and funding mechanisms by which the longterm implementation of the BEMP will be secured by the developer through the management body responsible for its delivery. The BEMP shall also set out (where the results from the monitoring show that the Aims and Objectives of the BEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the Aims and Objectives of the originally-approved BEMP. The development shall be implemented in accordance with the approved BEMP.

Reason: *To secure mitigation and compensation for the ecological effects resulting from loss of habitat and to secure a net biodiversity gain in line with Policy LP30 of the Kirklees Local Plan and chapter 15 of the National Planning Policy Framework. This pre-commencement condition is necessary to ensure that measures to ensure adequate enhancement and a biodiversity net gain are submitted and approved at an appropriate stage of the development process.*

29. *Prior to the commencement of development, a scheme detailing fully costed air quality mitigation measures, based on the cost damage calculation as detailed in the Air Quality Assessment by Wardell Armstrong (ref: GM11587) (dated: January 2021) section 5.2.26 of the report, shall be submitted to and approved in writing by the Local Planning Authority. In the absence of acceptable proposals for Low Emission Mitigation Measures of sufficient value, a Section 106 agreement may be required for the amount up to the estimated damage cost made available to the local authority to spend on air quality improvement projects within the locality. Following completion of the agreed air quality mitigation measures a verification report detailing a breakdown of costs shall be submitted to and approved in writing by the Local Planning Authority. The report shall detail the expenditure of each of the mitigation measures agreed, and this should reflect the total sum of cost damages that have been calculated for the development. The mitigation and measures required by the report will be implemented prior to the retail use of the site commencing.*

Reason: *For promoting sustainable development and transport and conserving the natural environment in accordance with guidance within the National Planning Policy Framework and Policies LP20, LP24, LP47 of the Kirklees Local Plan.*

This pre-commencement condition is necessary to ensure that information regarding lighting is submitted and approved at an appropriate stage of the development process.

Of note, under Non Material Amendment application ref: 2024/90400, changes to the wordings of some of the above-listed conditions were approved, however the council's decision letter of 29/04/2024 did not set out reworded conditions, and did not include a revised plans and documents table.

Proposed Variations

The proposal is for the variation of conditions 2-6, 15 and 29 of the previous permission 2021/92528, which was for the erection of a retail development, associated parking, servicing areas and landscaping.

The applicant has supplied a covering letter setting out what changes are being sought:

Condition 2 (plans and specifications)

The site plan shows that the proposed non-food retail unit is to be moved 5.5m to the southeast.

The proposed (Lidl) store is to be moved approximately 0.5m closer to the south-eastern boundary, but there will be a reconfiguration with its overall footprint reduced by 270sqm.

Minor reorganisation of car parking spaces will take place.

Condition 3 (gross internal floorspace)

It is requested this condition be modified to reflect the new floorplan, in which there will be a small decrease (28sqm) in the Gross Internal Area (GIA) [the proposed changes are in bold type below]:

*“The quantum of gross internal floorspace in Use Class E(a) of the Town and Country Planning (Use Classes) Order 1987 (as amended) within the two retail units hereby approved on the application site, as shown on drawing number **7404 - SMR - 00 - ZZ – DR - A - 2003 - A3 – C9**, shall not exceed the following:*

- *Unit 1 – **2,203** sqm*
- *Unit 2 – 2,280 sqm (plus the associated garden centre of 513 sqm)”*.

Condition 4 (net sales areas)

The Lidl foodstore would be updated to the latest store format which would result in the GIA of the net sales area increasing by 104sqm (an increase of 7.4% when compared to that previously approved). It is therefore requested the condition be updated as follows:

“The net sales area devoted to the sale of convenience and comparison goods, within Use Class E(a) of the Town and Country Planning (Use Classes) Order 1987 (as amended), within the two retail units and associated garden centre (unit 2) hereby approved on the application site, as shown on drawing number

***7404 - SMR - 00 - ZZ - DR - A - 2003 - A3 – C9** shall not exceed the following:*

Convenience Goods:

- *Unit 1 – **1,213** sqm*
- *Unit 2 – 906 sqm*

Comparison Goods:

- *Unit 1 – **303** sqm*
- *Unit 2 – 1,108 sqm*
- *Unit 2 Garden Centre – 513 sqm”*

Condition 5 (control on sub-division)

Condition 5 refers to the superseded layout plan. It is requested the condition be updated to reflect the latest site layout plan (ref: 7404 - SMR - 00 - ZZ - DR - A - 2003 - A3 – C9).

Condition 6 (points of access)

The original supporting statement requested the condition be updated to reflect the updated boundary treatments plan (ref: 7404 - SMR - 00 - ZZ - DR - A - 2008 - A3 - C8).

The applicant subsequently requested that condition 6 be changed to a compliance condition in recognition of detailed drawings having been

submitted on 18/09/2024 comprising 23-435-S184-1100-001, S184-200-001, S184-700-001, S184-100-001 together with 23-435-S106-100-001 RevA and S106-100-002.

Note – Regarding conditions 3, 4, 5 and 6 above, the reference numbers that appeared in the applicant's supporting statement are now superseded as further minor changes have been made during the course of the application to demonstrate compliance with the requirements of the statutory undertaker, Yorkshire Water, and minor changes to landscaping. The main changes being sought (the balance and amount of retail floorspace and changes to the siting and configuration of buildings within the site) are, however, unchanged.

Condition 15 (Biodiversity Enhancement and Management Plan)

A revised Biodiversity Net Gain document accompanies this application. This confirms that the development proposals would result in a net loss of 62.03% in biodiversity value, compared to a loss of 82.33% as set out in the approved application. The recommendations of this report remain as previously approved, including the inclusion of bat roost and bird nesting features to provide enhancements. The applicant has requested that condition 15 be updated to reference the revised biodiversity values, as shown in the accompanying BNG Technical Note (13438_R02h_EG_AHS). This calculates that 0.69 habitat units and 0.42 hedgerow units would be created on site post-development, in addition to retained habitat.

The applicant has further requested that the condition be modified to a prescriptive / compliance condition, a Biodiversity Enhancement and Management Plan (BEMP) having been submitted with the application.

Condition 29 (air quality)

An updated Air Quality Assessment Emissions Mitigation letter (ref: PT/MTW/GM13180/002) has been prepared and accompanies this application. This letter sets out an updated cost damage calculation which reflects the slightly reduced number of vehicle movements associated with the revised proposals. The letter concludes that suitable mitigation measures are included within the Travel Plan and estimated costs for each measure provided. The proposed mitigation measures from the Travel Plan exceed the damage cost value calculated in the emissions mitigation assessment and therefore the applicant believes there is no need to provide any further financial contributions as part of a Section 106 agreement for other additional mitigation measures. Condition 29, it is requested, should therefore be updated to reflect the updated Air Quality Assessment Emissions Mitigation letter (ref: PT/MTW/GM13180/002), as a compliance or prescriptive condition:

29. The development shall be carried out and operated in accordance with the approved Amendment to Air Quality Assessment Emissions Mitigation letter ref: PT/MTW/GM13180/002 dated 26th March 2024. Following completion of the agreed air quality mitigation measures a verification report detailing a breakdown of costs shall be submitted to

and approved in writing by the Local Planning Authority. The report shall detail the expenditure of each of the mitigation measures agreed, and this should reflect the total sum of cost damages that have been calculated for the development. The mitigation and measures required by the report will be implemented prior to the retail use of the site commencing.

It should be noted that the applicant originally sought to have some of other pre-commencement conditions discharged as part of this application, but this is no longer the case as the applicant has chosen to have these matters assessed under the remit of a separate application for discharge of condition application (see Relevant Planning History section below).

History of negotiations / amendments received

18/09/2024: Further highway details, biodiversity mitigation plan and emissions mitigation assessment amendment supplied.

26/11/2024: Amended site plan and landscaping details supplied.

March 2025: Further minor amendments to site plan and sections.

April 2025: Amended BNG Metric and statement.

None of the above submissions raised substantial new planning issues that would necessitate public reconsultation.

Relevant Planning History

2021/92528: Erection of retail development, associated parking, servicing areas and landscaping. Approved subject to Section 106 Agreement covering i) Off-site biodiversity contribution; ii) Highway contribution; iii) Travel plan monitoring contribution; and iv) SUDS maintenance schedule. Permission granted 21/11/2023.

2024/90400: Non material amendment to previous permission 2021/92528. Approved 29/04/2024. This concerned addressing “discrepancies” in the decision notice (regarding plan and document references, and the wording of condition 15) for permission ref: 2021/92528. Although this NMA application was approved, the council’s decision letter of 29/04/2024 did not set out reworded conditions, and did not include a revised plans and documents table.

2024/92949: Discharge of conditions 9 (retaining walls), 17 (Phase II Report), 18 (Remediation), 21 (Coal mining) 23 (charging facilities), 24 (facing materials) and 27 (construction management plan) of previous permission 2021/92528. Undetermined.

2024/93219: Discharge of details reserved by conditions 11, 12, 13 and 14 (drainage) and 28 (landscape) of previous permission 2021/92528. Undetermined.

Representations

Final publicity date expired: 13/09/2024 (publicity by site notice and press advertisement in addition to neighbour letter, as the application is for Major Development).

No representations were received.

Consultation Responses

Internal:

- KC Planning Policy – No objection.
- KC Highways Development Management – No objection.
- KC Environmental Health – No objection to variation of conditions (further detailed comments on contaminated land, noise, air quality, EV charging points – explained later in this report).
- KC Trees – No objection.
- KC Lead Local Flood Authority – No objection to the proposed variation of conditions.

External:

- Coal Authority – No objection subject to coal conditions being reimposed.
- Yorkshire Water – No objection.
- West Yorkshire Police Designing Out Crime Officer – No objection to changes.

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 27/02/2019).

The site is without designation within the Kirklees Local Plan.

Relevant Local Plan policies:

- LP1 – Presumption in favour of sustainable development

- LP2 – Place shaping
- LP7 – Efficient and effective use of land and buildings
- LP13 – Town Centre Uses
- LP20 – Sustainable travel
- LP21 – Highways and access
- LP22 – Parking
- LP24 – Design
- LP30 – Biodiversity and Geodiversity
- LP48 – Community facilities and services
- LP52 – Protection and improvement of environmental quality

Supplementary Planning Documents and other documents:

- Highway Design Guide SPD
- Biodiversity Net Gain Technical Advice Note
- Climate Change Guidance for Planning Applications

Climate Change:

On 12/11/2019, 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 pre-dates 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.

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 2024, 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.

- Chapter 2 – Achieving sustainable development
- Chapter 6 – Building a strong and competitive economy
- Chapter 7 – Ensuring the vitality of town centres
- Chapter 9 – Promoting sustainable transport
- 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

Assessment

The following matters are considered in the assessment below –

- Principle of development
- Appropriateness of change of use in terms of retail policy
- Highway and transport issues
- Visual amenity
- Biodiversity
- Air quality
- Section 106 agreement
- Drainage
- Conditions
- Conclusion

Principle of development

Section 73 of the Town and Country Planning Act 1990 allows for the variation or removal of a condition of a previous permission.

The principle of development is established. The implications for visual amenity, national retail policy, transport and environmental issues arising from the material changes to the site layout and from the proposed changes to the wording of the conditions will be considered in detail under the appropriate headings in this report.

The advice in paragraph 140 of the NPPF, that local planning authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme, will also inform the decision.

Appropriateness of change of use in terms of retail policy

Under national and local policy (NPPF paragraph 91 and Local Plan policy LP13), a sequential test is required for the consideration of any application for retail development outside a designated town or local centre (including the change of use of a unit outside a commercial centre that was granted permission subject to a condition limiting the type of goods sold).

For the sequential test, main town centre uses should by default be located in town centre locations, then edge of centre locations and only if suitable sites are not available should out of centre sites be considered (Local Plan policy LP13 part b). The NPPF also states that “when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre” (paragraph 92). Policy LP13 part

b makes it clear that the boundary for retail proposals is the primary shopping area and for all other main town centre uses it is the centre boundary.

Local Plan paragraph 9.12 provides further guidance on the scope of the sequential test and states that applicants will be expected to provide details of the business model for the development, an appropriate catchment that the business would seek to serve and an appropriate audit trail of any sequentially preferable sites that have been discounted with a robust justification.

Planning Practice Guidance: Town centres and retail (paragraph 011) provides that the following should be considered in determining whether a proposal complies with the sequential test:

- With due regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the proposal been considered?
- Is there scope for flexibility in format or scale of the proposal?

Planning Practice Guidance highlights that the use of the sequential test should recognise that certain main town centre uses have market and locational requirements which mean that they may only be accommodated in specific locations (Paragraph Reference ID: 2b-012-20190722).

The applicant has submitted an updated retail impact assessment which considers the impact of the proposed 7.2% uplift in convenience and comparison good floor space using updated convenience and comparison goods turnover figures, but with the same trade diversion patterns.

The updated retail impact assessment finds that the revised scheme would only result in a marginal increase in both convenience and comparison goods impact from the relevant centres, though notes this is largely due to the use of more recent company average turnover figures rather than the small floorspace increase.

The methodology used to determine the updated impact assessment is considered to be sound. Officers are therefore in agreement with the applicant that the proposed variation to the relevant conditions can be supported.

The proposed changes to retail floorspace would involve a 102m² increase in the size of the Lidl store with increases in both comparison and convenience goods floorspace. A retail sequential test and retail impact assessment was submitted in support of the original application, finding that there would be an acceptable impact on the relevant centres. This was independently assessed and found to be sound.

An updated retail impact assessment was submitted under this Section 73 application. This provides an assessment utilising updated average revenue turnover. The findings of the updated retail impact assessment indicate that there would be minimal impact over and above the scheme for which

permission currently exists and would not result in unacceptable trade diversion from the relevant affected centres. As such the proposal is considered to accord with Local Plan policy LP13 and the aims of national retail policy as expressed in NPPF paragraphs 90 to 95.

Highway and transport issues

It is considered that the changes to the amount and designation of retail floorspace as set out earlier in this report would not have any significant impact upon the amount, or type, of vehicle trips to and from the site, including those arising from servicing and deliveries. Access arrangements would be unchanged.

The revised parking layout would result in a slight reduction in spaces overall. There would, however, be an increase of ten EV (electric vehicle) spaces from the two shown on the original site layout, and there would be no change to the number of accessible spaces or parent and child spaces.

It is therefore considered that the proposed variations do not raise any concerns from the point of view of highway safety, nor for sustainable transport, and would accord with the aims of Local Plan policies LP20, LP21 and LP22.

The following plans have been submitted that are of relevance to condition 6 (points of access):

- 23-435-S184-1100-001, kerbing and white lining
- S184-200-001, site clearance and statutory undertakers
- S184-700-001, pavements
- S184-100-001, general arrangements, levels and drainage
- 23-435-S106-100-001 RevA, General arrangement
- S106-100-002, construction details

KC Highway Development Management have not commented on these in their consultation response. There is, however, correspondence on file (email dated 20/02/2024) in which the Highway Design (Section 278) team confirm that the above documents are approved for construction. The email refers to the first plan as 23-435-S184-100-001, but it is assumed that the missing out of one digit is solely a typing error and that the plans on file are the ones that the email refers to. It is therefore considered that they can be approved for planning purposes. They will be added to the list of approved documents and the condition wording modified accordingly.

Visual amenity

It is considered that the changes to site layout, including the minor changes to the size and positioning of buildings, would not significantly change the visual impact of the scheme.

The changes would allow more soft landscaping to be incorporated into the site, mainly near the northwestern and southwestern boundaries. The implications of these changes for biodiversity will be examined in the relevant section below, however in terms of visual amenity this is judged to be a small improvement on the original layout.

Condition 6 (points of access) refers to a scheme for the provision of two access points to the site, one from Woodhead Road and the other from Bankwood Way. The updated plan, as previously noted, does not change the position or design of the two accesses. It has, however, been updated to take into account changes in parking layout and boundary treatments. These are now to comprise a 2m paladin fence to the southeastern boundary, a 1.1m handrail at the northwestern boundary and alongside the parking spaces near the southeastern boundary of the site, and knee-high railings bordering Paradigm House and the northeastern boundary. The main changes from the original plan are that the paladin fence would replace a 1.1m paladin fence and handrail, the addition of more knee-high railing to the northeastern boundary, and the changing of the position of retaining walls within the site (these would now be closer to the Woodhead Road boundary). It is considered that all boundary treatments are acceptable in visual terms.

Any possible implications for highway stability are already covered by condition 9, and the other changes to boundary treatments are considered visually insignificant and they would still be in keeping with the overall character of the area.

In conclusion, it is considered that the proposed changes would be compatible with the principles of good urban design as set out in Local Plan policy LP24 and chapter 12 of the NPPF and can be supported.

Biodiversity

The biodiversity metric and supporting reports submitted with the original application found that the baseline value of the site was 1.8 habitat units, all of which would be lost, and that partial on-site compensation would be provided as 0.32 habitat units on site. To achieve a 10% net gain, as targeted by Kirklees Council and (at the time) emerging National Policy, the creation of an additional 1.66 biodiversity units off-site was found to be necessary. This informed the £38,180 off-site biodiversity contribution, which was calculated based on £20,000 per unit (plus 15% administrative cost).

The new BNG metric submitted with this application calculates the baseline value of the site at 2.16 habitat units and further calculates 0.67 habitat units can be created on site, in addition to 0.31 that are being retained. To achieve a 10% net gain, the creation of an additional 1.396 biodiversity units off-site will be necessary. This is calculated as: 10% increase on baseline of 2.16 = 2.376. The latest development proposals would result in 0.98 biodiversity units being present post-development. Therefore, a further 1.396 units would need to be provided offsite (most likely to be purchased from an offsite provider).

0.54 hedgerow units would be created from a baseline of zero. No off-site creation of hedgerow units is therefore necessary.

The developer has entered into a supplemental Section 106 Agreement (Deed of Variation) – this includes a requirement to make an off-site contribution to BNG, recalculated at £32,108 (this is 1.396 habitat units, at a value of £20,000 per unit plus 15% administration costs).

A Biodiversity Enhancement and Management Plan (BEMP) has been submitted. It describes the site context, set out management objectives, monitoring and remedial actions, and who would be responsible for its implementation. It is considered that the scope and level of detail of the BEMP is adequate given the scale of the development and the amount of habitat created or retained on site, and that it fulfils the aims of the condition.

The updating of condition 15 (Biodiversity Enhancement and Management Plan) and its change to a prescriptive condition is therefore accepted as it would comply with the aims of Local Plan policy LP30 and the statutory obligations set out in the Environment Act, in ensuring that habitat loss is compensated for and that a 10% net enhancement is delivered on or off site.

Air quality

Regarding condition 29, an updated Air Quality Assessment Emissions Mitigation letter (ref: PT/MTW/GM13180/002) has been prepared and accompanies this application. This letter sets out an updated cost damage calculation which reflects the slightly reduced number of vehicle movements associated with the revised proposals. The letter concludes that suitable mitigation measures are included within the Travel Plan and estimated costs for each measure provided. The proposed mitigation measures from the Travel Plan exceed the damage cost value calculated in the emissions mitigation assessment and the applicant believes it is therefore unnecessary to provide any further financial contributions as part of a Section 106 agreement for other additional mitigation measures. Condition 29, the applicant requests, should therefore be updated to reflect the updated Air Quality Assessment Emissions Mitigation letter (ref: PT/MTW/GM13180/002), as a compliance or prescriptive condition.

KC Environmental Health have assessed the submitted information and confirm that they have no objection to the variation of condition 29 as proposed, provided that the aforementioned document is included in the list of approved plans.

The proposal is also considered to have no material implications for the climate change mitigation aims set out in Local Plan policy LP24(d) and Chapter 14 of the NPPF, for the biodiversity of the site, or for any other relevant planning objectives.

Section 106 Agreement

The original application was granted subject to a Section 106 Agreement as set out in the Relevant Planning History section above. The terms of the Section 106 Agreement covered the following obligations:

- Payment of contribution for off-site highway improvement works;
- Payment of off-site biodiversity contribution;
- Payment of travel plan monitoring contribution;
- Submission of SUDS (sustainable urban drainage system) maintenance schedule.

For this current Section 73 application, a Deed of Variation has been entered into and signed by both parties. This ensures that the obligations set out in the original Section 106 Agreement are carried over to the new permission, with no changes except in relation to the Biodiversity Net Gain contribution.

Drainage

Yorkshire Water initially objected to the application as the layout appeared to show building work and a tree within the easement of a water main. Further plans offering clarification on these have been submitted. Yorkshire Water have confirmed that 150mm diameter ductile iron water main recorded crossing the site is currently isolated and no longer in use, and that none of the works shown would affect access to any active drainage infrastructure.

The applicant has confirmed that notwithstanding the comments of the Lead Local Flood Authority, which recommended that some of the drainage pre-commencement conditions could be discharged, discharge of pre-commencement conditions relating to drainage is no longer being sought and that the same conditions can be imposed in the same format as before.

Conditions

Section 73 of the Town and Country Planning Act 1990 allows the Local Planning Authority to review the previously-applied conditions (attached to the previous permission ref: 2021/92528), and to update, revise, add to or delete redundant conditions as part of the assessment of the current application. Those conditions would normally be re-applied in any subsequent approval of a S73 application, as the effect of the S73 approval is the issue of a fresh grant of permission.

To date, no conditions of permission ref: 2021/92528 have been discharged.

It is noted again that, under Non Material Amendment application ref: 2024/90400, changes to the wordings of some of the conditions of permission ref: 2021/92528 were approved, however the council's decision letter of 29/04/2024 did not set out reworded conditions, and did not include a revised plans and documents table. This current Section 73 application provides an opportunity to consolidate the previously-approved and now-proposed amendments to conditions, in a single up-to-date list. Similarly, a revised and

up-to-date plans and documents table (consolidating previously-approved and now-proposed amendments) can be approved under this current Section 73 application.

The following table summarises the various corrections and amendments:

Condition	Amended under NMA application 2024/90400	Amendment under Section 73 application 2024/91591
Condition 1 (timeframe for commencement)	No change	Wording changed from “within three years of the date of this permission” (in the decision dated 21/11/2023) to “not later than 20/11/2026”
Condition 2 (plans and specifications)	No change to wording of condition, but changes approved to related list of plans and specifications	No change to wording of condition, but changes made to related list of plans and specifications
Condition 3 (gross internal floorspace)	Reference to drawing 7404-SMR-00-ZZ-DR-A-2201-S3 rev P4 changed to 7404-SMR-00-ZZ-DR-A-2003-A3-C2	Drawing reference changed to 7404-SMR-00-ZZ-DR-A-2003-A3-C13, and size of Unit 1 changed from 2,231sqm to 2,203sqm
Condition 4 (net sales areas)	No change	Reference to drawing 7404-SMR-00-ZZ-DR-A-2003-A3-C2 changed to 7404-SMR-00-ZZ-DR-A-2003-A3-C13, and sizes of Unit 1 changed from 1,131sqm to 1,213sqm, and from 283sqm to 303sqm
Condition 5 (control of sub-division)	No change	Reference to drawing 7404-SMR-00-ZZ-DR-A-2003-A3-C2 changed to drawing 7404-SMR-00-ZZ-DR-A-2003-A3-C13
Condition 6 (points of access)	Reference to drawing 7404-SMR-00-ZZ-DR-A-2008-S3 rev P2 changed to 7404-SMR-00-ZZ-DR-A-2008-A3-C4	Now a compliance condition referring to drawings 23-435-S184-1100-001, S184-200-001, S184-700-001, S184-100-001 together with 23-435-S106-100-001 rev A and S106-100-002
Condition 7 (highway scheme)	Reference to drawing 20/270/TR/002 Rev A changed to 20/270/TR/002	Reference to drawing deleted
Condition 8 (highway signage)	No change	No change
Condition 9 (highway retaining walls)	No change	No change

Condition 10 (travel plan)	Reference to a single Travel Plan changed to Travel Plans 20-270-003.03 July 2021 and 20-270-004.03 July 2021	As per previously-approved amendment
Condition 11 (oil / petrol interceptor)	No change	No change
Condition 12 (drainage scheme)	No change	No change
Condition 13 (flood routing)	No change	No change
Condition 14 (temporary drainage)	No change	No change
Condition 15 (Biodiversity Enhancement and Management Plan)	Reference to 1.08 hedgerow units changed to 0.46 hedgerow units	Now a compliance condition referring to the submitted Biodiversity Net Gain Technical Note (Tyler Grange, 13438_R02j_EG_AHS, 09/04/2025) and Biodiversity Enhancement and Management Plan (Tyler Grange, 13438_R03_AHS, 11/07/2024)
Condition 16 (landscaping)	No change	No change
Condition 17 (phase II report)	No change	No change
Condition 18 (Remediation Strategy)	No change	No change
Condition 19 (unexpected contamination)	No change	No change
Condition 20 (Validation Report)	No change	No change
Condition 21 (coal mining legacy)	No change	No change
Condition 22 (coal mining legacy)	No change	No change
Condition 23 (electric vehicle charging)	No change	No change

Condition 24 (materials)	No change	No change
Condition 25 (security measures)	No change	No change
Condition 26 (noise)	No change	No change
Condition 27 (Construction Management Plan)	No change	No change
Condition 28 (public water main clearance)	No change	No change
Condition 29 (air quality)	No change	Now largely a compliance condition referring to the submitted Air Quality Assessment Emissions Mitigation letter ref: PT/MTW/GM13180/002 dated 26/03/2024, with a requirement for a verification report to be submitted later
Condition 30 (external lighting)	No change	No change

Conclusion

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development, with the variations applied for as detailed above, would be compatible with national and local retail, environmental and biodiversity objectives and that it would not result in the quality of the scheme being diminished from that of the scheme as originally approved.

It would therefore constitute sustainable development and is recommended for approval.

Recommendation – GRANT VARIATION OF CONDITIONS

Decision Authorisation - Delegated Powers

Application Number: 2024/91591

Officer Recommendation: GRANT VARIATION OF CONDITIONS

Conditions and Reasons

1. The development shall be begun not later than 20/11/2026.

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 Policies LP21 and LP24 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

3. The quantum of gross internal floorspace in Use Class E(a) of the Town and Country Planning (Use Classes) Order 1987 (as amended) within the two retail units hereby approved on the application site, as shown on drawing number 7404 - SMR - 00 - ZZ - DR - A - 2003 - A3 - C13, shall not exceed the following:

- Unit 1 – 2,203 sqm
- Unit 2 – 2,280 sqm (plus the associated garden centre of 513 sqm)

Reason: To protect the vitality and viability of Town Centres in accordance with Kirklees Local Plan Policy LP13 Town centre uses and National Planning Policy Framework Chapter 7 Ensuring the vitality of town centres.

4. The net sales area devoted to the sale of convenience and comparison goods, within Use Class E(a) of the Town and Country Planning (Use Classes) Order 1987 (as amended), within the two retail units and associated garden centre (unit 2) hereby approved on the application site, as shown on drawing number

7404 - SMR - 00 - ZZ - DR - A - 2003 - A3 - C13, shall not exceed the following:

Convenience Goods:

- Unit 1 – 1,213 sqm
- Unit 2 – 906 sqm

Comparison Goods:

- Unit 1 – 303 sqm
- Unit 2 – 1,108 sqm
- Unit 2 Garden Centre – 513 sqm.

Reason: To protect the vitality and viability of Town Centres in accordance with Kirklees Local Plan Policy LP13 Town centre uses and National Planning Policy Framework Chapter 7 Ensuring the vitality of town centres.

5. Neither of the units hereby approved on the application site, as shown on drawing number 7404 - SMR - 00 - ZZ - DR - A - 2003 - A3 - C13, shall be sub-divided without the prior written approval of the Local Planning Authority.

Reason: To protect the vitality and viability of Town Centres in accordance with Kirklees Local Plan Policy LP13 Town centre uses and National Planning Policy Framework Chapter 7 Ensuring the vitality of town centres.

6. Before any part of the development is brought into use, the two points of access into the site from Woodhead Road and Bankwood Way as shown on the approved site plan shall be formed in accordance with the details contained within documents referenced 23-435-S184-1100-001, S184-200-001, S184-700-001, S184-100-001 together with 23-435-S106-100-001 rev A and S106-100-002.

Reason: In the interests of highway safety and to achieve a satisfactory layout in accordance with Policies LP21, LP24 and LP52 of the Kirklees Local Plan.

7. No unit shall be occupied until a detailed scheme for the proposed changes to the road priorities on Woodhead Road / Bankwood Way have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include construction specifications, white lining, signing, surface finishes together with an independent Safety Audit covering all aspects of the work. The works shall be completed in accordance with the agreed details before any part of the development is first brought into use.

Reason: In the interests of highway safety and to achieve a satisfactory layout in accordance with Policies LP21, LP24 and LP52 of the Kirklees Local Plan.

8. No unit shall be occupied until full details of a scheme for directional signage onto the highway network from within the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include sign locations, sign details and construction specifications. Unless otherwise agreed in writing by the Local Planning Authority, all the approved works shall be implemented before any part of the development is first brought into use.

Reason: In the interests of highway safety and to achieve a satisfactory layout in accordance with Policies LP21, LP24 and LP52 of the Kirklees Local Plan.

9. Prior to any development commencing, the detailed design of retaining walls adjacent to highways shall be submitted to and approved in writing by the Local Planning Authority. Details shall include the location of the walls, and cross-sectional information together with details of their design and construction. The retaining walls shall be constructed in accordance with the approved details thereafter.

Reason: In the interests of highway safety and to achieve a satisfactory layout in accordance with Policies LP21, LP24 and LP52 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure measures to avoid increased risks to highway safety and adverse impacts upon the highway

network are submitted and approved at an appropriate stage of the development process.

10. The development shall be carried out and operated in accordance with the approved Travel Plans 20-270-003.03 July 2021 and 20-270-004.03 July 2021. Those parts of the approved Travel Plans that are identified therein as being capable of implementation after occupation shall be implemented in accordance with the timetable contained therein and shall continue to be implemented as long as any part of the development is occupied.

Reason: To ensure occupants of the development are encouraged to use sustainable forms of transport and to mitigate the highway and air quality impacts of the development in accordance with Policies LP20, LP21, LP24, LP47, LP51 and LP52 of the Kirklees Local Plan, Chapters 9 and 15 of the National Planning Policy Framework, and the West Yorkshire Low Emissions Strategy.

11. Development shall not commence until a scheme demonstrating surface water from vehicle parking and hard standing areas passing through an oil / petrol interceptor of adequate capacity prior to discharge has been submitted to and approved in writing by the Local Planning Authority. Roof drainage shall not be passed through any interceptor.

Reason: To ensure the effective disposal of surface water from the development so as to avoid water contamination and an increase in flood risk and so as to accord with Policies LP27 and LP28 of the Kirklees Local Plan and chapter 14 of the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure details related to drainage and water contamination are submitted and approved at an appropriate stage of the development process.

12. Development shall not commence until a scheme detailing foul, surface water and land drainage (including agreed discharge rates with the LLFA indirectly or directly to watercourse, attenuation for the critical 1 in 100 + 30% climate change rainfall event, attenuation construction details /design, plans and longitudinal sections, hydraulic calculations, and phasing of drainage provision) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a risk assessment and method statement, in accordance with CDM Regulations 2015, for access to and into the attenuation structure, and an itinerary of maintenance tasks with schedules. The submitted design should identify and indicate on the plans the outfall from the existing 1100 mm diameter culvert and provide evidence that the flows within the culvert eventually discharge to the Howden Clough watercourse. No part of the development 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 and retained thereafter.

Reason: To ensure the effective disposal of surface water from the development so as to avoid an increase in flood risk and so as to accord with Policies LP27 and LP28 of the Kirklees Local Plan and chapter 14 of the National Planning Policy Framework. This pre-commencement condition is

necessary to ensure that details of drainage are submitted and approved at an appropriate stage of the development process.

13. The development shall not commence until an assessment of the effects of 1 in 100 year storm events, with an additional allowance for climate change, blockage scenarios and exceedance events on drainage infrastructure and surface water run-off pre and post development between the development and the surrounding area (both upstream and downstream of the development), has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be brought into use until the works comprising the approved scheme have been completed and the approved scheme shall be retained thereafter.

Reason: To ensure the provision of adequate and sustainable systems of drainage are employed, in the interests of amenity, environmental well-being and to accord with Policy LP28 of the Kirklees Local Plan and the aims of Chapter 14 of the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure that details of drainage are submitted and approved at an appropriate stage of the development process.

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

- Any phasing of the development and any phasing of temporary drainage provision;
- Methods of preventing silt, debris and contaminants entering existing drainage systems and watercourses and how flooding of adjacent land will be prevented; and
- A plan showing the location of the attenuation storage and supporting calculations, which shall be based on the critical 1 in 2-year.

It should be assumed that once the site has been stripped the percentage run-off will be 100%. The maximum allowable off-site discharge rate shall not exceed 2.5 litres per second, unless otherwise agreed in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority. 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 permanent surface water drainage system, as approved under Condition 12, is in place.

Reason: To ensure the provision of adequate and sustainable systems of drainage are employed, in the interests of amenity, environmental well-being and to accord with Policy LP28 of the Kirklees Local Plan and the aims of Chapter 14 of the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure that details of temporary drainage are submitted and approved at an appropriate stage of the development process.

15. Works to deliver the on-site biodiversity units detailed in the Biodiversity Net Gain Technical Note (Tyler Grange, 13438_R02j_EG_AHS, 09/04/2025)

shall be implemented within six months of the practical completion of the development hereby approved, and the Biodiversity Enhancement and Management Plan (Tyler Grange, 13438_R03_AHS, 11/07/2024) shall be implemented in full.

Reason: To secure mitigation and compensation for the ecological effects resulting from loss of habitat and to secure a net biodiversity gain in line with Policy LP30 of the Kirklees Local Plan and chapter 15 of the National Planning Policy Framework.

16. Prior to occupation of the development hereby approved, details of hard and soft landscaping and planting plans shall be submitted and approved to the Local Planning Authority. Details shall include full planting specification, including layout, species, number, density and size of trees and plants and/or seed mixes and sowing rates, including extensive use of native species. The landscaping scheme shall be carried out in full accordance with the approved plans prior to first occupation of the development or in the first planting season following completion of the development, whichever is later.

Reason: To create a diverse and attractive landscape which should enhance the setting of the development in accordance with Policy LP32 of the Kirklees Local Plan and guidance within the National Planning Policy Framework.

17. Groundworks (other than those required for a site investigation report) shall not commence until a supplementary Phase II Intrusive Site Investigation Report by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and guidance within the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure that site contamination information is submitted and approved at an appropriate stage of the development process.

18. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 17, 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: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and guidance within the National Planning Policy Framework.

19. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 18. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered 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 guidance within the National Planning Policy Framework.

20. 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 and 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 guidance within the National Planning Policy Framework.

21. None of the development hereby approved shall commence until:

- A scheme of further intrusive investigations has been carried out on site to establish any risks posed to the development by past coal mining activity; and
- Any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with relevant UK guidance.

Reason: To address unacceptable risks to human health and the environment arising from the legacy of coal mining activity and ground contamination, to accord with Policy LP53 of the Kirklees Local Plan and guidance within the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure that coal legacy information is submitted and approved at an appropriate stage of the development process.

22. Prior to the first occupation of the development, or it being brought into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: To address unacceptable risks to human health and the environment arising from the legacy of coal mining activity and ground contamination, to accord with Policy LP53 of the Kirklees Local Plan and guidance within the National Planning Policy Framework.

23. Before the electrical system required as part of the development hereby approved is installed, a scheme detailing the dedicated facilities that will be provided 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 include the following details:

- A Standard Electric Vehicle Charging Point is one which is capable of providing a continuous supply of at least 16A (3.5kW) and up to 32A (7kW). The higher output is more likely to be futureproof
- At non-residential developments, the requirement for one standard electric vehicle charging point for at least 10% of parking spaces may initially be reduced to one charging point for at least 5% of parking spaces with the remainder provided at an agreed trigger point.
- For developments where some or all of the parking is likely to be used for shorter stay parking (30mins to 4 hours) then Fast (7-23kW) or Rapid (43kW+) charging points may be more appropriate. If Fast or Rapid charging points are proposed together with restrictions on the times that vehicles are allowed to be parked at these points then a lower number of charging points may be acceptable.
- The electrical supply of the final installation shall allow the charging equipment to operate at full rated capacity.
- The installation must comply with all applicable electrical requirements in force at the time of installation.

Buildings and parking spaces that are to be provided with charging points shall not be brought into use until the charging points are installed and operational. Charging points installed shall be retained thereafter.

Reason: In the interest of supporting and encouraging the use of low emission vehicles, in the interest of air quality enhancement, and to comply with the aims and objectives of Policies LP20, LP24 and LP47 of the Kirklees Local Plan and Chapters 2, 9 and 15 of the National Planning Policy Framework.

24. Prior to any development commencing, details of facing materials of the retaining wall to the south-eastern boundary alongside Bankwood Way shall be submitted to and approved in writing by the Local Planning Authority. The retaining walls shall be constructed in accordance with the approved facing materials thereafter.

Reason: In the interests of create an attractive setting of the development in accordance with Policy LP24 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure that information regarding materials is submitted and approved at an appropriate stage of the development process.

25. Prior to occupation of any part of the development hereby approved, details of security measures for the delivery/loading area shall be submitted to and approved in writing by the Local Planning Authority. These security

measures shall be implemented upon first occupation of the approved development and retained in place for the lifetime of the development.

Reason: In the interests of public safety and security in accordance with Policy LP24 of the Kirklees Local Plan.

26. 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 the aims and objectives of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

27. No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall provide:

- A timetable of all works;
- Details of the construction access(es) and confirmation that adequate visibility splays shall be provided prior to the commencement of development including groundworks;
- Details of vehicle sizes and routes, times of vehicle movements, and identify the location of any HGV waiting areas and include details of the management of said areas;
- Details the parking of vehicles of site operatives and visitors;
- Details and locations of signage;
- Details loading and unloading of plant and materials;
- Details of storage of plant and materials used in constructing the development;
- Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing;
- 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;
- Measures to control and monitor the emission of dust and dirt during construction;
- A Site Waste Management Plan, detailing recycling/disposing of waste resulting from demolition and construction works;
- Details of mitigation of noise and vibration arising from all construction related activities to (these details should also include suitable restrictions on the hours of working on the site including times of deliveries);
- Details of artificial lighting used in connection with all construction related activities and security of the construction site;
- Site manager and resident liaison officer contact details (including their remit and responsibilities);

- Details of engagement with local residents and occupants or their representatives; and
- Measures to minimise the risk of harm to/ensure the protection of protected and notable species present at the site and those habitat features to be retained through the works, and to ensure the control/management of invasive species (including information on key working methods, timings and monitoring measures).

The development shall be carried out strictly in accordance with the approved Construction Management Plan and no change there from shall take place without the prior written consent of the Local Planning Authority.

Reason: To safeguard the amenities of the occupiers of nearby properties, in the interests of highway safety, to protect wildlife, and in accordance with guidance within the National Planning Policy Framework and Policies LP21, LP24 and LP30 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure that information regarding construction management is submitted and approved at an appropriate stage of the development process.

28. No building or other obstruction including landscape features shall be located over or within 5 metres either side of the centre line of the public water main (if retained), i.e. a protected strip width of 10 metres, that crosses the site. If the required stand-off distance is to be achieved via diversion or closure of the water main, the developer shall submit evidence to the Local Planning Authority that the diversion or closure has been agreed with the relevant statutory undertaker and that prior to construction in the affected area, the approved works have been undertaken.

Reason: In order to allow sufficient access for maintenance and repair work at all times, to accord with Policy LP28 of the Kirklees Local Plan and guidance within the National Planning Policy Framework.

29. The development shall be carried out and operated in accordance with the approved Amendment to Air Quality Assessment Emissions Mitigation letter ref:

PT/MTW/GM13180/002 dated 26/03/2024. Following completion of the agreed air quality mitigation measures a verification report detailing a breakdown of costs shall be submitted to and approved in writing by the Local Planning Authority. The report shall detail the expenditure of each of the mitigation measures agreed, and this shall reflect the total sum of cost damages that have been calculated for the development. The mitigation and measures required by the report will be implemented prior to the retail use of the site commencing.

Reason: For promoting sustainable development and transport and conserving the natural environment in accordance with guidance within the National Planning Policy Framework and Policies LP20, LP24, LP47 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure that information regarding lighting is submitted and approved at an appropriate stage of the development process.

30. Prior to the fixing of any external lighting required in association with either of the two retail units hereby approved, details of the external lighting for that unit shall be submitted to and agreed in writing with the Local Planning Authority. Details shall include specific location of all external lighting units, the design of all lighting units, details of beam orientation and lux levels, and any other measures, such as motion sensors and timers, that will be used.

Reason: To restrict any light pollution and glare, in accordance with Policy LP52 of the Kirklees Local Plan and the aims 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: Construction Management –Noisy construction related activities should 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.

Institute of Air Quality Management document “Guidance on the assessment of dust from demolition and construction” Version 2014 provides detailed information regarding dust control. 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: Yorkshire Water ask the developer to note that the 150mm diameter ductile iron water main recorded crossing the site is currently isolated and must be formally abandoned before any construction works start. For further information, please call 0345 120 8482 (option 2) to discuss the abandonment works with Yorkshire Water’s clean water team.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Location Plan -	7404 - SMR - 00 - ZZ -	C5	04/06/2024

Plan Type	Reference	Version	Date Received
Planning	DR - A - 2001 - A3 -C5		
Existing Site Plan - Planning	7404 - SMR - 00 - ZZ - DR - A - 2002 - A3 - C5	C5	04/06/2024
Proposed Site Plan showing fire hydrant location	7404 - SMR - 00 - ZZ - DR - A - 3003 - S4 - C10	C10	10/03/2025
Proposed Site Plan	7404 - SMR - 00 - ZZ - DR - A - 2003 - A3 - C13	C13	10/03/2025
Proposed Elevations	7404 - SMR - 00 - ZZ - DR - A - 2302 - A3 - C2	C2	04/06/2024
Proposed Floor and Roof Plans	7404 - SMR - 00 - ZZ - DR - A - 2301 - A3 - C2	C2	04/06/2024
Proposed Boundary Treatments - Planning	7404 - SMR - 00 - ZZ - DR - A - 2008 - A3 - C12	C12	10/06/2025
Proposed Site Sections - Planning	7404 - SMR - 00 - ZZ - DR - A - 2007 - A3 - C12	C12	10/03/2025
Landscape Details	R/2459/1P	Rev P	10/03/2025
GA Ground Floor Plan - Retail Unit	7404 - SMR - 00 - ZZ - DR - A - 2201 - A3 - C2	C2	04/06/2024
GA Roof Plan - Retail Unit	7404 - SMR - 00 - ZZ - DR - A - 2202 - A3 - C2	C2	04/06/2024
Proposed Elevations - Retail Unit	7404 - SMR - 00 - ZZ - DR - A - 2203 - A3 - C2	C2	04/06/2024
Foul Sewer & Surface Water Layout	24062-SDS-00-SL-DR-C-3021	T6	10/03/2025
Proposed Site Plan – Drainage Overlay	7404 - SMR - 00 - ZZ - DR - A - 8001 - S4	C3	10/03/2025
Swept path analysis of max legal HGV accessing service yard	20/270/ATR/009	B	04/06/2025
Planning and Retail Statement Addendum (main statement plus appendices 1 and 2)	Lichfields, 20541308v1		02/07/2024
Design and Access Statement Addendum	Lichfields		14/06/2024
Transport Statement	Bryan G Hall, 20-270-002.03		04/06/2024
Travel Plan (Lidl foodstore)	20-270-003.03		04/06/2024
Travel Plan (other retail unit)	20-270-004.03		04/06/2024
Noise Impact	Environmental Noise		14/06/2024

Plan Type	Reference	Version	Date Received
Assessment	Solutions Limited, NIA/9358/20/9382/v5/Li dl Birstall		
Arboricultural Report & Impact Assessment	AWA Tree Consultants, AWA5815		04/06/2024
Biodiversity Net Gain Technical Note	Tyler Grange, 13438_R02j_EG_AHS. 09/04/2025		10/04/2025
Biodiversity Metric 2.0 Calculation Tool			10/04/2025
Biodiversity Enhancement Management Plan (BEMP)	Tyler Grange, 13438_R03_AHS, 11/07/2024		18/09/2024
Air Quality Assessment Emissions Mitigation letter	Wardell Armstrong, PT/MTW/GM13180/002		18/09/2024
Drainage Design Report	24185-SDS-XX-RP-C- 0001-00, September 2024		10/10/2024
Kerbing and white lining	23-435-S184-1100-001		16/09/2024
Site clearance and statutory undertakers	S184-200-001		16/09/2024
Pavement details	S184-700-001		16/09/2024
General arrangement levels and drainage	S184-100-001		16/09/2024
General arrangement	23-435-S106-100-001	A	16/09/2024
Construction details	S106-100-002		16/09/2024