

**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:	2024/70/92396/W
Site Address:	Salendine Filling Station, New Hey Road, Salendine Nook, Huddersfield, HD3 3UZ
Description:	Variation of condition 2 (plans and specifications) on previous permission 2023/91393 for demolition of existing sales building and erection of new sales building, installation of 3 new jet wash bays, electrical vehicle charging bays with associated infrastructure, de-link of existing forecourt canopy, and associated forecourt works
Recommending Officer:	Katie Chew

DECISION – Variation of Condition 2 - Approved

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

Kirsty Nicholls

AUTHORISED OFFICER

Date: 29-Oct-2024

Officer Report

Site Description

Salendine Filling Station, New Hey Road, Salendine Nook, Huddersfield, HD3 3UZ

The application site currently comprises of a petrol filling station operated by Esso. The site also benefits from a shop operated under the Londis brand. The site comprises fuel pumps with a canopy overhead linking to the sales building, 4 pump islands providing refuelling facilities for 8 cars at any time, car wash, air/water bay and associated infrastructure.

The site is bounded by residential properties to the south, east and west. To the north is New Hey Road which is a Primary A road, and beyond that there are further residential dwellings.

The application site is not located within a Conservation Area and is not located in close proximity to any listed buildings.

Officer note: It is acknowledged that there is a Grade II Listed guidepost to the north of the application site.

Description of Proposal

The Section 73 (S73) application seeks consent for the variation of condition 2 (plans and specifications) on previous permission 2023/91393 for demolition of existing sales building and erection of new sales building, installation of 3 new jet wash bays, electrical vehicle charging bays with associated infrastructure, de-link of existing forecourt canopy, and associated forecourt works.

Condition 2 of application 2023/91393 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, LP7, LP13, LP21, LP22, LP24, LP47, LP51, LP52 and LP53 of the Kirklees Local Plan, Chapters 2, 4, 6, 7, 8, 9, 11, 12, 14, 15 and 16 of the National Planning Policy Framework'.*

The proposed alterations include:

- Revised location for the substation.
- Revised location for LV panel.
- New covered bin store.
- Existing mid sign removed.

- Revised metering GRP cabinet.
- Plant room relocated with 2.4m high hit and miss timber fencing.
- Revised location of 2 no. covered jet wash bays and 1 no. open jet wash bay.
- New vent stack to be installed.
- New indicative pole sign.
- Revised storefront.
- Retaining wall to be extended slightly up to new substation location.
- Sales building has been reduced in size slightly (from 290sqm to 262.3sqm).

History of negotiations/amendments received

Amendments were sought to update plans to include customer parking to the front of the sales building.

Relevant Planning History

2024/91293 – Demolition of existing sales building and erection of new sales building, installation of 3 new jet wash bays, electrical vehicle charging bays with associated infrastructure, de-link of existing forecourt canopy, and associated forecourt works. Pending consideration.

2024/90573 – Discharge conditions 4 (Phase I Desk Study Report), 11 (CCTV), 12 (lighting) on previous permission 2023/91393 for demolition of existing sales building and erection of new sales building, installation of 3 new jet wash bays, electrical vehicle charging bays with associated infrastructure, de-link of existing forecourt canopy, and associated forecourt works. Split decision 22nd April 2024.

2024/90901 – Non-material amendment to previous permission 2023/91393 for Demolition of existing sales building and erection of new sales building, installation of 3 new jet wash bays, electrical vehicle charging bays with associated infrastructure, de-link of existing forecourt canopy, and associated forecourt works. Refused 5th April 2024.

2023/91393 – Demolition of existing sales building and erection of new sales building, installation of 3 new jet wash bays, electrical vehicle charging bays with associated infrastructure, de-link of existing forecourt canopy, and associated forecourt works. Approved 11th October 2023.

2022/92130 – Variation condition 9 (hours of operation) on previous permission 2019/92653 for erection of single storey side extension, 2m high bin store enclosure and new shop front. Withdrawn 8th November 2022.

2022/90538 – Discharge conditions 4-8 (contamination and remediation) on previous permission 2019/92653 for erection of single storey side extension, 2m high bin store enclosure and new shop front. Split decision 11th April 2022.

2021/92358 – Installation of 1 no. new jet wash bay with 2.6m high glazed screens. Withdrawn 7th February 2023.

2019/92653 – Erection of single storey side extension, 2m high bin store enclosure and new shop front. Approved 14th October 2019.

2018/91804 – Variation of condition 5 (operating hours) on previous permission 2017/93278 for demolition of existing petrol filling station and redevelopment to provide a new petrol filling station facility with forecourt shop/sales building, customer car parking and associated services. Withdrawn 24th October 2018.

2018/91733 – Discharge of condition 3 (samples) and 6 (security measures) on previous application 2017/93278 for demolition of existing petrol filling station and redevelopment to provide a new petrol filling station facility with forecourt shop/sales building, customer car parking and associated services. Approved 24th July 2018.

2017/93278 – Demolition of existing petrol filling station and redevelopment to provide a new petrol filling station facilities with forecourt shop/sales building, customer car parking and associated services. Approved 4th December 2017.

2014/92511 – Erection of extensions to sales building and associated works. Approved 16th October 2014.

Representations

Final publicity date expires:

Neighbour Letters – Expired 8th October 2024.

1 representation in objection has been received; comments are summarised below.

- Object to the current opening hours and the proposed hours moving forward. Planning application 2017/93278 noted that the operating hours for the business were set at 06:00am until 23:00pm. However, the filling station has been operating for 24 hours a day. If the proposed planning goes ahead will the hours of business be imposed and regulated?

Officer note: As no amendments are proposed to the existing operating hours and Officers and Environmental Health Officers (under application ref: 2023/91393) deem the existing and proposed arrangements to be suitable, with restricted hours of use for the proposed jet wash bays and electric vehicle charging points, and deliveries it is not considered reasonable or necessary to impose further restrictions at this time. In addition, Officers note that the above 2017 application was never implemented at the site and

therefore the opening hours of the 2017 are not in place, thus there is no breach of condition on this occasion.

- The proposal seeks to increase the current jet wash facilities from one to three. The current noise pollution from one jet wash is intrusive, especially as there is a lack of a solid barrier between the jet wash and properties located on the boundary. From observation I find it unnecessary for three to be built.

Officer note: Noted. The Council's Environmental Health team were previously consulted on the proposals, their comments are discussed in more detail within the residential amenity section of this report.

- Concerns in respect to vermin.

Officer note: Noted. The Council's Environmental Health Officers have previously been consulted on this matter and raised no concerns in respect to vermin. Should this issue arise it is recommended that a query be raised outside of this planning application to the Council's Environmental Health team.

- The shrubs between neighbour properties and the filling station are not properly maintained.

Officer note: Noted. This is a civil matter that is not afforded significant weight in the determination of this planning application given planting falls outside the definition of development and excessive planting is controlled via separate legislation.

- Concerns in respect to safety on the boundary of the site.

Officer note: Noted. The Council's Designing out Crime Officer (DOCO) was previously consulted on the original application (ref: 2023/91393) which was for a similar scheme at the site. DOCO Officers raised no objections to the principle of development but did request a condition be attached in relation to security measures at the site. This condition is to be reimposed should planning permission be granted for this S73 application.

- Concerns in respect of light pollution arising from the existing signage, shop front and forecourt roof lighting. It is believed that this is in breach of Section 102 of the Clean Neighbourhoods and Environment Act.

Officer note: Noted. The Council's Environmental Health team were previously consulted on the proposals and raised no concerns in respect of light pollution. Nevertheless, a condition has been included which requires the submission of an external lighting scheme should any external artificial lighting be erected, this is in the interests of residential amenity.

- The new HV and LV substations together with the jet wash bays don't appear to have any soundproofing or a maintainable barrier between the business and residential properties on Celandine Avenue. If the planning application is approved, will the council add a condition and regulate that there is an adequate boundary built between them and neighbouring properties?

Officer note: Noted. The Council's Environmental Health team were previously consulted on the proposals, their comments are discussed in more detail within the residential amenity section of this report.

Officer note: We are currently undertaking the legal statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. As such, we have publicised this application via neighbour notification letters only, details of which are outlined above.

Consultation Responses

No technical consultations deemed necessary.

Parish/Town Council

N/A.

Local Ward Members

None.

Planning Policy Background

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is located adjacent to Salendine Nook Local Centre (approximately 10m away to the west) and that there is a Grade II Listed guidepost to the north of the application site.

Kirklees Local Plan (LP):

- **LP1 – Achieving Sustainable Development**
- **LP2 – Place Shaping**
- **LP7 – Efficient and Effective Use of Land and Buildings**
- **LP13 – Town Centre Uses**
- **LP21 – Highways and access**
- **LP22 – Parking**
- **LP24 – Design**

- **LP35 – Historic Environment**
- **LP47 – Healthy, Active and Safe Lifestyles**
- **LP51 – Protection and Improvement of Local Air Quality**
- **LP52 – Protecting 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) updated 20th December 2023, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications. 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 7 – Ensuring the vitality of town centres
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed and beautiful places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conservation and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

Other Guidance Documents:

- Kirklees Highways Design Guide (2019)
- Planning Applications Climate Change Guidance (2021)
- Biodiversity Net Gain Technical Advice Note

1 - 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 the demolition of the existing sales building and erection of a new sales building, alongside the installation of 3 new jet wash bays, electrical vehicle charging bays with associated infrastructure and forecourt works was established at the site under permission 2023/91393. As such, it is considered that the principle of development remains established by the way of the

previous application. The assessment will therefore deal with the merits of the proposed variations only.

2 – Impact on Visual Amenity and Heritage Assets

The application seeks to vary condition 2 relating to the approved plans and specifications. Alterations include:

- Revised location for the substation.
- Revised location for LV panel.
- New covered bin store.
- Existing mid sign removed.
- Revised metering GRP cabinet.
- Plant room relocated with 2.4m high hit and miss timber fencing.
- Revised location of 2 no. covered jet wash bays and 1 no. open jet wash bay.
- New vent stack to be installed.
- New indicative pole sign.
- Revised storefront.
- Retaining wall to be extended slightly up to new substation location.
- Sales building has been reduced in size slightly (from 290sqm to 262.3sqm).

In terms of the amended layout, the new sales building is to be located in a similar position to the previously approved building and is to be around 28sqm smaller but around 0.3m higher. Given the reduction in floorspace, the slight increase in height is considered to be visually acceptable. The building is to accommodate a flat roof and be finished with Plank Profile composite timber effect panels in grey-brown. The building also accommodates a large amount of glazing along the front elevation, whilst the appearance of the building is somewhat modern, it is not considered to appear incongruous or out of character in this location given the sites close proximity to Salendine Shopping Centre which has several units of varying designs and materials.

The jetwash bays, electric vehicle charging points, metering GRP cabinet, vent stacks, retaining wall and plant room are all to remain visually as previously approved, in terms of scale, size and design. It is their location that has been amended and these changes are deemed to be acceptable. Although it is noted that the proposed plant room is to be taken out of its enclosure previously approved and included within the substation enclosure which is bounded by a 2.4m high timber fence, this is considered to be sufficient screening in this instance.

Whilst it is acknowledged that the application site is located adjacent to (to the north) a Grade II guidepost, given that the amendments proposed are minor alterations to what has previously been approved at the site, and seek to simply demolish and replace an existing petrol filling station with a similar development, Officer's do not consider the amended proposals to detract or

negatively impact upon the setting and significance of this adjacent heritage asset.

It is therefore considered that the proposals would still be in accordance with Policies LP1, LP2, LP24 and LP35 of the Kirklees Local Plan and Chapters 12 and 16 of the National Planning Policy Framework.

3 - Impact on Residential Amenity:

Given the nature of the amendments proposed within this variation of condition application, which includes revised locations for the previously approved substation, LV panel, jet wash bays, plant room, metering GRP cabinet, extension of retaining wall, a new covered bin store, and a reduction in the overall size of the sales building, it is considered necessary to assess the residential amenity of adjacent neighbouring properties against these changes.

Impact on no. 387 New Hey Road

This neighbouring property is located to the west of the application site, approximately 5.5m away. This property is most likely to be impacted by the proposed replacement sales building and covered bin store. It is noted that the proposed sales building would be approximately 28sqm smaller than the previously approved building, but slightly higher by around 0.3m, however, this slight increase in height is not considered to be detrimental, and result in the building appearing overbearing or causing any significant additional overshadowing when compared to what was previously approved. In addition, no windows are proposed within the rear elevation of the building and therefore there are no concerns in regard to overlooking or the loss of privacy.

In addition to the above, amendments have also been made to the proposed bin storage area, whilst in a similar location, the bin store is now smaller in size and covered and therefore Officers consider this to be an improvement to the previously approved bin storage area.

Impact on nos. 2-14 Celandine Avenue

These neighbouring properties are located to the east/south-east of the application site, approximately 9+ metres away. These dwellings are most likely to be impacted by the amended location of the previously approved 3 jetwash bays, GRP substation, GRP LV enclosure, metering GRP cabinet and plant room. In respect of the jetwashes these have been relocated further into the site, to the south-west by approx. 4.5m. The proposed substation, metering GRP cabinet and plant room are also to be relocated to the north-east of the jetwash bays and the LV enclosure is to be relocated into the old substation location. Whilst these amendments have resulted in some changes along the south-eastern boundary for these neighbouring properties, the impact from these structures is considered to be relatively similar as to what was previously assessed under application 2023/91393. The jetwashes are to remain at 3.1m in height and 14+ metres in length, and as they are to be

finished in glazed panels they will appear as lightweight structures that will not be overly dominant and will not overshadow. Moving on to the GRP substation and LV enclosure, these structures are to be small in scale and size, single storey in height and include no windows. Taking this into consideration, as well as the above separation distances, Officers do not consider these elements of the scheme to appear overbearing in nature, or cause impacts on overshadowing or overlooking on this occasion.

Impact on Flats 1-6 and 7-13 Laund Road (Moor Hill Court)

These neighbouring properties are located to the north of the application site, approximately 30+ metres away. Given the large separation distances and that the amended proposals seek minor amendments to an already existing petrol filling station, Officers have no concerns in respect of overlooking, overshadowing, or the proposed amendments appearing overbearing in nature on this occasion.

Impact on no. 385 New Hey Road

This neighbouring property is located to the south of the application site, approximately 1.5m away from the southern boundary of the site. This dwelling is most likely to be impacted by the new vent stack which is to be located along the southern boundary adjacent to the sales building. ENVH Officers have assessed the proposals and raised no concerns on this matter. In addition to this, the proposals seek to amend the previously approved bin store. However, this is to be located in a similar location to previously approved, smaller in size and covered, therefore Officers consider this to be an improvement to the previously approved scheme and that it would have a minimal impact on no. 385 New Hey Road. Whilst it is acknowledged that the electric vehicle charging points have moved slightly, the proposed retaining wall which runs along the southern boundary of the site has been extended and therefore Officers have no concerns with this change. To conclude, Officers have no concerns in respect of overlooking, overshadowing, or the proposals appearing overbearing in nature.

In terms of noise and odour pollution, whilst the Council's Environmental Health (ENVH) Officers have not been formally consulted under this application, they were consulted under application 2024/91293, which relates to a full application for the same alterations. Officers therefore consider their comments to be relevant in the assessment of this current application. In respect of noise, ENVH Officers note that the key differences of the scheme relate to the relocation of the substation enclosure, and new plant room location. As a new/addendum noise report has not been submitted to confirm the changes in the current application would not cause a loss of amenity at neighbouring noise sensitive locations, ENVH Officers request the imposition of a condition which requires the submission of a noise assessment report. A condition in respect of construction working times is also required (as requested previously).

In respect of waste storage, a new covered bin store is proposed to the south of the new sales building. Whilst the bin store is to be located adjacent to residential properties, this is to be smaller than previously approved under application 2023/91393 and is to be covered. Furthermore, the Council's Environmental Health team were consulted and raised no concerns in respect of odour pollution, Officers therefore have no reason to disagree with this conclusion and therefore this element of the scheme is deemed to be acceptable.

Given the above, it is considered that the proposal complies with Local Plan Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

4 - Impact on Highway Safety:

Local Plan Policies LP21 and LP22 are relevant and seek to ensure that proposals do not have a detrimental impact to highway safety and provide sufficient parking. Furthermore, Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Whilst the Council's Highways Officers have not been formally consulted under this application, they were consulted under application 2024/91293 which relates to a full application for the same alterations. Officers therefore consider their comments to be relevant in the assessment of this current application.

Highways Officers stated that the footprint of the site is to remain as existing with the internal configuration of the layout to accommodate the proposed new layout. Given the principle of a petrol station is well established being an existing facility, the additional traffic is considered to be negligible in this instance. In addition, this application is of similar proposals to previous application (2023/19393) of which Highways Officers had no concerns with the following provision of required information on swept paths. Overall the proposal is considered acceptable from a highways perspective, and no highway specific conditions are considered necessary.

Taking the above into account, it is concluded that the scheme would not represent any additional harm in terms of highway safety and would therefore comply with Local Plan Policies LP21 and LP22, and the guidance contained within Chapter 9 of the National Planning Policy Framework.

5 - Other Matters:

With regards to other matters that were assessed as part of the previous planning permission – climate change and contaminated land, 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. Whilst the plans have been updated within the plans table to reflect the amendments applied for, the wording of condition 2 will remain unchanged. It is also noted that conditions 3, 4, 5, 6, 7, 8, 10 and 13 of previously approved application 2023/91393 remain unchanged and therefore will be reimposed should permission be granted. Condition 9 is to be amended to remove reference to a previously approved noise report as ENVH Officers consider that a new/addendum report should be provided given the level of changes sought. Therefore, this condition will now request the submission of a new noise assessment report. Looking at Conditions 11 and 12, whilst it is acknowledged that a Discharge of Condition application ref: 2024/90573 was submitted and approved by the LPA, given the proposed changes within this S73 application, it is considered reasonable and necessary that both Conditions 11 and 12 are reimposed to this permission to ensure that updated assessments are provided, as the previous plans submitted as part of application 2024/90573 now differ and would require amended CCTV and Lighting. It is also important to note that an additional informative will be added should permission be granted which supports Condition 9 in respect of the submission of a noise assessment report from a competent person.

6 - Conclusion:

The proposal is a Section 73 Variation of Condition application to vary condition 2 (plans). This amendment is required to accommodate minor changes to a previously approved scheme, to allow for modifications to the scale and size of the originally approved sales building, and internal alterations to provide 3 new jet wash bays, electrical vehicle charging bays and associated infrastructure, and forecourt works. As set out above, in determining a S73, 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 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:

Approve.

Decision Authorisation - Delegated Powers

Application Number: 2024/92396

Officer Recommendation: Approve.

Conditions & Reasons:

1. The development hereby permitted shall be begun prior to the 11th October 2026.

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

1. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2, LP7, LP13, LP21, LP22, LP24, LP47, LP51, LP52 and LP53 of the Kirklees Local Plan and Chapters 2, 4, 6, 7, 8, 9, 11, 12, 14, 15 and 16 of the National Planning Policy Framework.

2. The use of the Jet Washes, Air/Water/Vacuum Station and Electrical Vehicle Charging Points shall be restricted to customers between the hours of 0700hrs to 2200hrs daily. No deliveries shall be carried out at the site outside of these hours.

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.

3. 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: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

4. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition (4), 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: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

5. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition (5), 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 paragraph nos. 189 and 190 of the National Planning Policy Framework.

6. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition (6). In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report is identified or encountered on site, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

7. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Verification 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

Verification Report in respect of those remediation measures has been approved in writing by the Local Planning Authority. Where verification has been submitted and approved in stages for different areas of the whole site, a Final Verification Summary Report shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

8. 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 noise emissions from the proposed development.
 - a) Details of existing background and predicted future noise levels at the boundary of the noise sensitive premises.
 - b) A written scheme of how the occupants of the above-mentioned noise sensitive premises will be protected from 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 measures shall be thereafter retained.

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. This pre-commencement condition is required to ensure that neighbouring amenity is protected and agreed at an appropriate stage of the development process.

9. 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.

10. Prior to the commencement of works on site, details of measures to prevent and deter crime and anti-social behaviour shall be submitted to and approved in writing by the Local Planning Authority. These shall include details of external lighting, CCTV and alarm systems, secure perimeter and natural surveillance of the ATM, details of the location of the "pay at the pump" dispensers and installation of ram raid bollards

adjacent to the ATM and front of the store hereby approved. No part of the development shall be brought into use until the development has been implemented in accordance with the details so approved.

Reason: In the interests of minimising the risk of crime and anti-social behaviour and creating a safer, more secure and sustainable neighbourhood, and to accord with Policies LP24 and LP47 of the Kirklees Local Plan and the National Planning Policy Framework.

11. Before the installation of external artificial lighting commences a lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme should include the following information:

- a) The proposed hours of operation of the lighting
- b) The location and specification of all of the luminaires
- c) The proposed design level of maintained average horizontal illuminance for the areas that needs to be illuminated.
- d) 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
- e) 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.

No external artificial lighting shall be used unless the lighting has been installed and operated in accordance with the approved scheme.

Reason: In the interests of visual and residential amenity to accord with policy LP24 and LP52 of the Kirklees Local Plan and the policies contained within chapters 12 and 15 of the National Planning Policy Framework.

12. No construction related noise shall be audible beyond the site boundary outside the hours of:

- 07.30 to 18.30 hours, Mondays to Fridays
- 08.00 to 13.00 hours, Saturdays
- With no construction related noise audible beyond the site boundary on Sundays or Public Holidays.

Reason: To safeguard the amenities of the occupiers of nearby properties in accordance with policy LP52 of the Kirklees Local Plan and policies within 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 2021. Reports must be prepared in accordance with the following guidance:

- Land Contamination Risk Management (LCRM)
- BS 10175:2011+ A2:2017 Investigation of Potentially Contaminated Sites. Code of Practice
- Development on Land Affected by Contamination - Technical Guidance for Developers, Landowners & Consultants - (v11.2) June 2020 by the Yorkshire and Lincolnshire Pollution Advisory Group.

The conditions relate to Planning Control only. Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information. Any other necessary consent must be obtained from the appropriate authority. If the applicant commences work without discharging conditions, they will be at risk of enforcement action and invalidating the permission if the planning condition is a pre-commencement condition.

NOTE: 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:

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

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
<i>Drawings approved under application 2024/92396</i>			
Location Plan	13539-LP	A	27 th August 2024
Block Plan	13539-BP	A	27 th August 2024
Proposed Site Layout	13539-P03	A	8 th October 2024
Proposed Site Elevations	13539-P04	-	27 th August 2024
Proposed Building Layout	13539-P07	-	27 th August 2024
Proposed Sales Building Elevations	13539-P08	-	27 th August 2024
Jet Wash Elevations	13593-P09	-	27 th August 2024
<i>Drawings approved under application 2023/91393</i>			
Existing Site Layout	13539-P01	-	12 th May 2023
Existing Site	13539-P02	-	12 th May 2023

Elevations				
Existing Building Layout	13539-P05	-		12 th May 2023
Existing Building Elevations	13539-P06	-		12 th May 2023
Jet Wash Elevations	13529-P09	-		12 th May 2023
Charger Detail	13539-P10	-		12 th May 2023
Substation Elevations	13539-P11	-		12 th May 2023
LV Enclosure Elevations	13539-P12	-		12 th May 2023
Noise Impact Assessment – Supporting Information	EEC/EC18475-4	1		25 th July 2023
Climate Change Statement – Supporting Information	-	-		19 th June 2023
Sequential Test Assessment – Supporting Information	-	-		18 th July 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 2015 and otherwise actively engaged with the applicant in dealing with the application. Amendments were sought to update plans to include customer parking to the front of the sales building.

Report Dated:

29th October 2024.