

Planning Services
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By Planning Portal Only**Date:** 8 October 2024**Our ref:** 62129/03/CD/KJ/32824089v2

Dear Ellie

Application to Discharge Conditions 9, 17, 18, 21, 23, 24 and 27 of Planning Permission 2021/62/92528/E at Land off Bankwood Way, Birstall Retail Park

On behalf of our client, Lidl GB Limited ("Lidl"), we are pleased to provide details to address the requirements of planning conditions 9, 17, 18, 21, 23, 24, and 27 pursuant to planning permission 2021/62/92528/E at Land off Bankwood Way, Birstall Retail Park, Birstall, Batley, WF17 9DT.

Application Submission

The application has been submitted via the Planning Portal (reference: PP-13415317) and comprises this covering letter and the following documents:

- Completed application form

Condition 9:

- Home Bargains Site Proposed Plan & Site Sections (24062-SDS-00-XX-DR-C-3050-T3)
- Home Bargains Site Proposed Gabion Wall Elevations (24062-SDS-00-XX-DR-C-3051-T3)
- Home Bargains Site Proposed RC Walls Sheet 1 of 5 (24062-SDS-00-XX-DR-C-3052-T3)
- Home Bargains Site Proposed RC Walls Sheet 2 of 5 (24062-SDS-00-XX-DR-C-3053-T3)
- Home Bargains Site Proposed RC Walls Sheet 3 of 5 (24062-SDS-00-XX-DR-C-3054-T2)
- Home Bargains Site Proposed RC Walls Sheet 4 of 5 (24062-SDS-00-XX-DR-C-3055-T3)

Condition 17, 18 and 21:

- Site Layout - Formation Levels and Ground Improvement Plan (24062-SDS-00-SL-DR-C-3019-T3)
- Supplementary Coal Mining Investigation (Ref. C8781/AW/9824 dated March 2022)
- Strategy for Remedial and Preparatory Works (Ref. C8781/RS, dated May 2022)

- Hazardous Ground Gas Risk Assessment (Ref. C8781/MB/9853 dated May 2022)
- Specification for the Drilling and Grouting of Shallow Mine Workings (Ref. SDL4050, dated May 2022)
- Combined Remediation Strategy, Drilling & Grouting Plan (Report No: 1080.07.02 dated May 2024)

The following ground reports have already been submitted and are included again for reference:

- Combined Phase 1 and Phase 2 Ground Investigation Report, by Curtins (dated 12th May 2021)
- Sirius Coal Mining Risk Assessment (Rev B dated 28th October 2021)
- Lidl Birstall Ground Engineering etc Philosophy (09-148-DOC003A)
- G B Card and Partners letter (Rev 1 dated 29th October 2021)
- Technics Topographical Survey Drawing (5038-1120-01B_Final)
- G B Card and Partners letter (dated 11th December 2020)
- Geo-Environmental Assessment, by Delta Simons (24th July 2018)

Condition 23:

- Proposed Site Plan (EV Boundary) (7404-SMR-00-XX-DR-A-8050-S3-P1)

Condition 24:

- Proposed Boundary Treatments – Planning (7404-SMR-00-ZZ-DR-A-2008-A3-C9)

Condition 27:

- Construction Method Statement Lidl Birstall (Rev 1 31.07.2024)

Application Context

On 21st November 2023, detailed planning permission was granted for the “*Erection of retail development, associated parking, servicing areas and landscaping*” (ref: 2021/62/92528/E).

Following the grant of planning permission, it was established that there were a number of discrepancies in the decision notice to plan and document references listed in conditions and the plans schedule. These discrepancies were where the decision notice referred to earlier versions of plans or documents, which were subsequently updated to reflect consultee comments. A non-material amendment application was approved on 29th April 2024 to amend the decision notice and correct the plan references (ref: 2024/NMA/90400/E).

A Section 73 application was submitted in May 2024 to make minor amendments (ref: 2024/91591), principally to bring the approved scheme in line with Lidl’s latest specification and extend the red line boundary from 1.53 ha to approximately 1.57 ha to align the red line boundary with the title plan. The Section 73 application is due to be determined in October 2024.

Lidl is keen to address pre-commencement matters now and is therefore seeking to discharge the relevant conditions in relation to permission ref: 2021/62/92528/E. Should these conditions be approved prior to determination of the Section 73 application, the revised conditions could then be

included within the decision notice for the Section 73 to ensure that this is the most up to date application for the site. The information provided to discharge the conditions reflects the layout that accompanies the Section 73 application.

Condition 9 – Retaining Walls

Condition 9 states:

“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.”

The accompanying plans provide the detailed design of retaining walls. A retaining wall 1.2m in height will be positioned to the far south-west and south-east boundaries, with a 1m retaining wall to the south, immediately behind the Lidl foodstore.

An approval in principle was required for the previous proposals due to the proximity of retaining walls to the highway. Lidl’s structural engineers have advised that there are no retaining walls immediately adjacent to highways, and consequently, highways approval is no longer required based on the revised design. As part of the revised proposals, the building level was raised and landscaping graded to remove the necessity to retain the highway, and the proposals are now outside the line of action. The retaining wall adjacent to the Lidl store appears to be outside the ZOI of highways and the retaining wall to the east of northern access is below the height threshold for highways approval. It is therefore considered that Condition 9 can now be fully discharged.

Condition 17 – Groundworks and Site Investigation Report

Condition 17 states:

“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.”

A Combined Phase 1 and Phase 2 Ground Investigation Report dated 12th May 2021 by Curtins, was provided as part of the S73 application (ref: 2024/91591) and is included with this submission. A Phase 2 GIR was undertaken to address the findings of the Phase 1 PSA, with site investigation works undertaken on the 1st and 10th September 2020. Condition 17 can therefore be discharged.

Condition 18 - Site Remediation

Condition 18 states:

“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.”

A Strategy for Remedial and Preparatory Works has been prepared by Sirius which should be read in conjunction with the Geotechnical Assessment of Proposed Ground Improvement Works letter report, completed by GB Card and Partners Ltd on behalf of Beam Consulting.

An additional verification report detailing the installation of gas protection measures will be required as construction of the buildings are completed.

The combined Phase 1 and Phase 2 Ground Investigation Report identified the presence of shallow coal and suspected shallow mineworkings below the site. The shallow seam is considered to be the Flockton Thin Coal, with evidence of workings within influencing distance encountered across the western and north-eastern site areas. A Specification for the Drilling and Grouting of Shallow Mine Workings has been prepared by Sirius Drilling Ltd (Sirius) for the stabilisation of shallow mine workings below the site. On completion of the drill and grout programme, a validation report containing copies of borehole records, a borehole location plan, procedures followed during the works, the results of validation boreholes and pressure tests, and a record of any deviation from this specification will be produced and issued to the client and all other relevant parties. Condition 18 can therefore be discharged.

Condition 21 - Intrusive Investigations and Remediation

Condition 21 states:

“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.”

A Supplementary Coal Mining Investigation accompanies this application, which supplements previous Phase 1 and 2 Ground Investigation reports for the site, to address concerns raised by the Coal Authority (CA) and recommendations made within a subsequent Detailed Coal Mining Risk Assessment undertaken by Sirius (letter report ref. C8781/GH/9715/Rev B, dated 28th October 2021).

Based on the finding of the investigations it is considered the risk from pillar and stall workings within the eastern part of the site is low, therefore removing the requirement for remedial works in the form of drill and pressure grouting within the northeastern area of the site. However, a risk to surface stability does exist within the northern and western parts of the site (as detailed within the Sirius Coal Mining Risk Assessment, Ref C8781/GH/9715/Rev B dated 28th October 2021). It is therefore recommended that northern and western areas of the site, which are underlain by the Flockton Thin and / or associated coal / seatearth workings, are stabilised by drilling and pressure grouting to mitigate the risk of surface instability. Confirmatory probe holes should be drilled within the areas of the former opencast (to the south of the conjectured Flockton Thin outcrop) to prove the absence of the coal seam.

The possibility of encountering unrecorded mine entries/bell pits on site cannot be discounted. Excavations should be inspected for any disturbed ground, associated with possible historic bell

pits/mine entries/ crop workings of the shallow coal. It is recommended that areas beneath proposed buildings have overlying made ground removed (where feasible, and in particular where within the conjectured sub-crop of the underlying Flockton Thin coal seam), in order to expose the natural ground. If any disturbed ground is suspected, advice regarding treatment should be sought from a suitably qualified engineer.

A detailed drilling and grouting specification for the site will be agreed with the regulators (CA and local authority) prior to commencement. Condition 21 can therefore be discharged.

Condition 23 – Electric Vehicle Charging

Condition 23 states:

“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.”

The accompanying Proposed Site Plan (EV Boundary) (7404-SMR-00-XX-DR-A-8050-S3-P1) shows the location of EV spaces. A total of 12 EV spaces will be provided with fast chargers (with a minimum of 7kw). EV spaces will be provided before the development is brought into use and retained thereafter in accordance with condition 23. Condition 23 can therefore be fully discharged.

Condition 24 – Retaining Wall Materials

Condition 24 states:

“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.”

The Proposed Boundary Treatments – Planning (7404-SMR-00-ZZ-DR-A-2008-A3-C9) confirms that a brick finish will be used for retaining walls in ‘Red Ashington Multi’. Condition 24 can therefore be discharged.

Condition 27 – Construction Management Plan

Condition 27 states:

“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.”

The accompanying Construction Method Statement demonstrates the arrangements that will be in place for the management of construction traffic, access, and safety on site throughout the construction phase.

The CMP provides details of environmental mitigation measures to be employed at the site, along with details for traffic management relating to the construction process and should be read in conjunction with the Transport Assessment and issues in support of the application. The CMP provides the details outlined within the condition wording and the development will be carried out strictly in accordance with the approved Construction Management Plan and no change will take place without the prior written consent of the Local Planning Authority. Condition 27 can therefore be discharged.

Summary

I trust you have sufficient information to validate this application, and to fully discharge conditions 9, 17, 18, 21, 23, 24, and 27 at Land at Bankwood Way, Birstall. In the meantime, should you wish to discuss the application, or require further information, please contact me on the number above.

Yours sincerely

Lucy Sime
Senior Planner
BA (Hons) MSc MRTPI