

**KIRKLEES METROPOLITAN COUNCIL  
INVESTMENT & REGENERATION SERVICE**

**DEVELOPMENT MANAGEMENT**

**Town and Country Planning Act 1990 (as amended) – SECTION 70**

**DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS**

Reference No:	<b>2024/62/93585/W</b>
Site Address:	Pet Warehouse Unit 2, Queensgate Retail Park, Queensgate, Huddersfield, HD1 2RD
Description:	Installation of air conditioning condenser units and extract ducts
Recommending Officer:	Molly Storer

**DECISION – CONDITIONAL FULL PERMISSION**

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

John Holmes

***AUTHORISED OFFICER***

**Date:** 12<sup>th</sup> March 2025

## **Officer Report**

### **Site Description**

The application site comprises the former commercial 'Pet Warehouse' shop but is currently a vacant retail unit. It is located to the south of the junction comprising the A62 (Queensgate) and Alfred Street with the north boundary of the application site facing out on to the junction. The A62 then runs west to east, parallel to the site's northern boundary, with Chapel Street forming its southern boundary. The site area refers to a middle retail unit adjoined to other retail units to each side.

### **Description of Proposal**

The application seeks planning permission for the installation of air conditioning condenser units and extract ducts.

The proposed air conditioning units and extract ducts are to be located to the rear (south-east) of the building. There will be 2 new air conditioning cassettes fixed to the rear wall 3.06m above ground level and 2 new extracts located at the same level.

The extract ducts will measure 0.2m x 0.2m and 0.4m x 0.4m and the air conditioning units will measure 1m x 1m and 1.4 x 1m.

The use of the site appears to be within use class E of Schedule 2 of the Town and Country Planning (Use Classes) Order 1987. This application relates to operational development only and the use of the building is not the subject of this proposal.

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

No amendments have been sought in this instance.

### **Relevant Planning History**

98/92142 – Change of use of existing building to 3 retail units. Erection of new pitched roof, installation of new shop front and associated parking. Granted

The wider site gained permission to change its use to three retail units and associated parking under permission 98/92142. The site gained outline permission for the erection of 13 townhouses and 60 bed student accommodation with (A1) retail and (A3) commercial uses under application number 2014/91958, however this wasn't implemented.

### **Representations**

Final publicity date expires:

Neighbour Letters – Expired 20<sup>th</sup> February 2025

No representations have been received to date.

**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**

**KC Environmental Health** – The data sheets in isolation do not predict the noise levels at the nearest noise sensitive façade and would normally be rejected. A generic odour assessment has also been submitted which is not site specific and would also normally be rejected. However, based upon the location on the ring road along with no immediate residential neighbours, we have no objection to the proposal. A compliance condition is recommended to ensure any installed fixed mechanical plant does not exceed the existing background noise levels.

### **Planning Policy Background**

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

The application site is unallocated within the Kirklees Local Plan but is located within a Bat Alert Area.

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

- LP1 – Achieving Sustainable Development
- LP2 – Place Shaping
- LP21 – Highways and Access
- LP24 – Design
- LP51 – Protection and Improvement of Local Air Quality
- LP52 – Protection and Improvement of Environmental Quality

#### **National Polices and Guidance:**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) updated December 2024 the Planning Practice Guidance Suite (PPGS) first launched 6<sup>th</sup> 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 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

### **Summary of Principal Planning Issues**

The following matters are considered in the assessment below –

- 1) Principle of development
- 2) Impact upon the character and appearance of the area
- 3) Impact upon residential amenity
- 4) Impact on highway safety
- 5) Other matters
- 6) Conclusion

#### **1 - Principle of Development:**

The site is without notation in the Kirklees Local Plan. Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. LP1 goes on further to stating that:

*“The Council will always work pro-actively with applicants jointly to find solutions which mean that the proposal can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area”.*

Policy LP2 sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Policy LP24 of the KLP is relevant and states that “good design should be at the core of all proposals in the district”.

In this instance, it can be stated that the principle of development in this application could be acceptable, subject to the assessment of impacts on visual and residential amenity, as well as highway safety and any other impacts that may arise. These will be discussed below.

#### **2 - Impact on Visual Amenity:**

The NPPF offers guidance relating to design in chapter 12 (achieving well designed places) states “The creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”

Kirklees Local Plan policies LP1, LP2 and significantly LP24 all also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity.

LP24 states that proposals should promote good design by ensuring: - 'a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape...'

The proposed development would small in size and scale when viewed in context with the development site as a whole. The units and ducts would be positioned in locations which are predominantly hidden from public view to the rear of the unit and at a high level. As the units and ducts would be in a location with little visibility from public vantage points it is considered that they would not cause a significantly visually harmful addition. It is also considered the appearance of the development would be functional and typical for this type of apparatus / the locality it would sited.

The units would be visible from the highway running to the south of the site (Chapel Street) although given the distance they would be sited, and the location as well as the prevailing character of this part of the street it is considered the visual impact would not be significant in this case and refusal on grounds of visual impact could not be substantiated.

The proposed development is therefore considered acceptable having regard to Policies LP1, LP2 and LP24 of the Kirklees Local Plan and Chapter 12 of the NPPF, as it would not adversely affect the character and appearance of the area.

### **3 - Impact on Residential Amenity:**

Sections B and C of LP24 states that alterations to existing buildings should: "...maintain appropriate distances between buildings' and '...minimise impact on residential amenity of future and neighbouring occupiers."

Paragraph 135 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

Given the nature and location of the application site there are no residential properties within the immediate area, surrounding sites typically include offices and commercial properties.

Environmental Health were consulted about the proposal and stated that based upon the location on the ring road along with no immediate residential neighbours, they have no objection to the proposal. However, a compliance condition was recommended to ensure any installed fixed mechanical plant does not exceed the existing background noise levels.

It is considered that given the nature of the works proposed, the development would not result in undue harm to neighbouring properties in terms of loss of light, loss of privacy, loss of outlook or the creation of an overbearing effect.

As such, taking into account the above, and subject to the recommended condition, the proposals are considered to accord with 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:**

Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF relate to access and highway safety and are considered to be relevant to the consideration of this application. The Council's adopted Highway Design Guide which seek to ensure acceptable levels of off street parking are retained are also considered to be of relevance.

The proposed scheme would not alter the existing parking arrangements at the site or access to and from the adjoining highway. In turn, the proposal would appropriately accord with Chapter 9 of the NPPF and LP21 and LP22 of the Kirklees Local Plan.

#### **5 - Other Matters:**

##### Biodiversity

Paragraphs within Chapter 15 of the National Planning Policy Framework are relevant, together with The Conservation of Habitats and Species Regulations 2017 which protect, by law, the habitat and animals of certain species including newts, bats and badgers. Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance.

Whilst it is acknowledged that the application site is located within a Bat Alert Area, given the small scale and nature of the proposals it is considered unlikely that roosting bats would be disturbed during construction works. However, an informative is to be provided should the application be recommended for approval.

In terms of Biodiversity Net Gain as set out by the statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021). The development is considered to benefit from the de-minimis exemption as set out by The Biodiversity Gain Requirements (Exemptions) Regulations 2024 and there is no required for BNG to be provided in respect of the aforementioned legislation.

Therefore, the proposal is considered to accord with Policy LP30 of the Kirklees Local Plan.

##### Climate Change

On 12<sup>th</sup> November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan 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.

Given the size, scale and nature of the proposals no special measures were considered to be required with regards to carbon emissions. The proposed development is therefore considered to comply with Policy LP51 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

## **6 - 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 proposed development would constitute sustainable development and is therefore recommended for approval.

## **Recommendation:**

Approve.

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## **Decision Authorisation - Delegated Powers**

**Application Number:** 2024/93585

**Officer Recommendation:** Approve.

## **Conditions and Reasons:**

1. The development hereby permitted shall be begun within three years of the date of this permission.  
**Reason:** Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.
2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this

decision notice, except as many 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, LP21, LP22, LP24, LP30, LP31, LP51, LP52 and LP53 of the Kirklees Local Plan and Chapters 2, 4, 9, 12, 14 and 15 of the National Planning Policy Framework.

3. 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 and to comply with Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

**NOTE:** Due to its location, a bat roost may be present on site. Bats are a European protected species under regulation 42 of the Conservation of Habitats and Species Regulations 2017. It is an offence for anyone intentionally to kill, injure or handle a bat, disturb a roosting bat, or sell or offer a bat for sale without a licence. It is also an offence to damage, destroy or obstruct access to any place used by bats for shelter, whether they are present or not. If bats are discovered on site development shall cease and the applicant is advised to contact Natural England for advice.

#### Plans and specifications schedule:-

Plan Type	Reference	Date Received
Location plan	TQRQM24348101640715	15/01/2025
Existing plans	-	19/12/2024
Proposed plans and elevations	-	19/12/2024
Proposed site/block layout	TQRQM24354103801131	15/01/2025
Climate change statement	-	16/01/2025
Odour Impact Assessment OIA	A3227/OIA/001	19/12/2024
Fan Specification for main extract	1253/2014	19/12/2024
Fan Specification for main extract	Etaline Fan document.	19/12/2024
Noise levels for air conditioning units	Noise Criterion Curves document	19/12/2024
Application form	-	19/12/2024

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local 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. No amendments were sought as it was considered that the proposal was acceptable as submitted.

**REPORT DATED 12<sup>th</sup> March 2025**