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:	**2025/70/91328/E**
Site Address:	Battyeford Playing Fields, Huddersfield Road, Mirfield, WF14 0EE
Description:	Removal of condition 6 (parking area materials) on previous permission 2023/93783 for use of land for siting of five storage containers, erection of drying room, recreational space and associated car parking
Recommending Officer:	Nicole Helliwell

DECISION – APPROVE REMOVAL OF CONDITION 6

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.

Sarah Longbottom

AUTHORISED OFFICER

Date: 09-Jul-2025

Officer Report

Reference No. 2025/70/91328/E

Site Address: Battyeford Playing Fields, Huddersfield Road, Mirfield, WF14 0EE

Proposal: Removal of condition 6 (parking area materials) on previous permission 2023/93783 for use of land for siting of five storage containers, erection of drying room, recreational space and associated car parking.

Site Description

The application relates to Batteyford Playing Fields which is situated off Huddersfield Road in Mirfield. The site is allocated as Urban Green Space within the Kirklees Local Plan Proposals Map. The wider area comprises a combination of residential and commercial properties of varying materials and architectural styles. The site is not within a conservation area, nor are there any listed buildings or public right of ways within close proximity.

Description of Proposal

The applicant seeks consent to remove condition 6 of previous permission 2023/93783 for the use of land for the siting of five storage containers, erection of drying room, recreational space and associated car parking, which was granted on 19th December 2024.

Condition 6 reads as follows:

6. Notwithstanding the submitted plans and details, the parking area hereby approved shall be finished in resin bounded gravel. The materials of construction shall thereafter be retained for the lifetime of the development.

Reason: *This condition is necessary in the interest of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and the aims of Chapter 12 of the National Planning Policy Framework.*

The submitted covering letter confirms that the applicant seeks to remove condition 6 to substitute the resin bounded gravel used for the car parking area with grasscrete.

Relevant Planning History

- **2025/91376:** Non material amendment to previous permission 2023/93783 for use of land for siting of five storage containers, erection of drying room, recreational space and associated car parking. Planning application details | Kirklees Council – Pending Consideration
- **2025/90407:** Discharge of details reserved by conditions 7 (flood warning system and evacuation plans) and 8 (flood risk assessment and method statement concerning storage containers) of previous permission 2023/93783 for use of land for siting of five storage containers, erection of

drying room, recreational space and associated car parking. Planning application details | Kirklees Council – Discharge of Condition(s) Approved
- **2023/93783:** Use of land for siting of five storage containers, erection of drying room, recreational space and associated car parking. Planning application details | Kirklees Council – Conditional Full Permission
- **2014/92573:** Siting of two storage containers and formation of car parking area. Planning application details | Kirklees Council – Conditional Full Permission
- **2001/90805:** Siting of 1no. steel security container. Planning application details | Kirklees Council – Conditional Full Permission

Representations
The application was publicised by site notice, which expired on 8th July 2025. As a result of the above publicity, no representations have been received.

Consultation Responses
Not Applicable.

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 27th February 2019).

The site is allocated as Urban Green Space on the Kirklees Local Plan Proposals Map (UG240). The site is also located within the Strategic Green Infrastructure Network. The most relevant policies for consideration in this case are:

Kirklees Local Plan Policies
- **LP 1** - Achieving Sustainable Development
- **LP 2** - Place Shaping
- **LP 3** - Location of New Development
- **LP 21** - Highways and Access
- **LP 22** - Parking
- **LP 24** - Design
- **LP 27** - Flood Risk
- **LP 28** - Drainage
- **LP 30** - Biodiversity and Geodiversity
- **LP 31** - Strategic Green Infrastructure Network
- **LP 50** - Sport and Physical Activity
- **LP 52** - Protection and Improvement of Environmental Quality
- **LP 53** - Contaminated and Unstable Land

- **LP 61** - Urban Green Space

National Policies 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 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.

- **Chapter 2** - Achieving Sustainable Development
- **Chapter 4** - Decision-Making
- **Chapter 11** - Making Effective Use of Land
- **Chapter 12** - Achieving Well-Designed Places
- **Chapter 14** - Meeting the Challenge of Climate Change, Flooding and Coastal Change
- **Chapter 15** - Conserving and Enhancing the Natural Environment

Other Guidance Documents:
- Kirklees Highways Design Guide (2019)

Assessment

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 development for the use of land for the siting of five storage containers, erection of drying room, recreational space and associated car parking, was established under permission 2023/93783. As such, it is considered that the principle of the development remains established by way of this permission. This assessment will deal with the merits of the proposed variation only.

2. Impact on Visual Amenity

General design considerations are set out in Policy LP24 of the Kirklees Local Plan and Chapter 12 of the NPPF, which seek to secure good design in all developments by ensuring that they respect and enhance the character of the townscape and protect amenity. Policy LP24 of the Kirklees Local Plan states that *'the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape.'*

The application seeks to remove condition 6 to substitute the resin bounded gravel with grasscrete for the proposed parking area. Although the proposal

would alter the external appearance of the site to a degree, it would maintain a natural appearance and would offer a better visual finish than the material previously approved.

In view of the above, It is considered that the amendment proposed is acceptable from a visual amenity perspective and is in accordance with Policy LP24 of the Kirklees Local Plan and the aims of the NPPF.

3. Impact on Residential Amenity

Section 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". Further to this, Paragraph 135(f) 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.

The alterations proposed are not considered to have a greater impact on the neighbouring occupants than the originally approved. Therefore, it is considered that the proposal would not have a detrimental impact upon the amenity of the adjacent residential properties and would accord with Policy LP24 of the Kirklees Local Plan and Paragraph 135(f) of the National Planning Policy Framework.

4. Impact on Highway Safety

Local Plan Policies LP21 and LP22 of the Kirklees Local Plan are relevant and seek to ensure that proposals do not have a detrimental impact on highway safety and provide sufficient parking. Furthermore, Paragraph 116 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.

Given the nature of the amendments proposed, no alterations would occur to the access and parking arrangements of the approved scheme. Therefore, the impact on highway safety is still considered acceptable and unchanged since the previously issued decision.

Given the above, Officers consider that the proposal would not cause detrimental harm to the safe and efficient operation of the highway network. The proposal is therefore considered to comply with Policies LP21 and LP22 of the Kirklees Local Plan, Chapter 9 of the National Planning Policy Framework, and advice contained within the Kirklees Highways Design Guide SPD.

5. Other Matters

With regard to other matters that were assessed as part of the previous planning permission, 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 following conditions relating to the original permission will be re-issued as they are considered to remain relevant:

- 3. Materials (Drying Room)
- 4. Materials (Recreational Space)
- 5. Materials (Storage Containers)
- 9. Water Compatible Use
- 10. Unexpected Contamination
- 11. Flood Risk

The following conditions relating to the original permission shall be reworded:

- 1. Timescale for implementation (This shall reflect the date development shall begin by)
- 2. Approved plans (The plans and specification table will be amended to reflect the plans/documents approved under this Section 73 application)
- 7. Flood Warning System
- 8. Flood Risk Assessment and Method Statement

The following conditions relating to the original permission are no longer relevant and shall be removed:

- 6. Materials (Parking Area)

6. Representations

No representations were received following the statutory publicity.

7. Negotiations

No amendments were sought or received during the course of the application.

8. Conclusion

This proposal is a Section 73 Variation of Condition application to remove condition 6 (parking area materials). 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. Therefore, it is a consideration of Condition 6 only. For the reasons set out in the report above, the removal of condition 6 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 the 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: 2025/91328
Officer Recommendation: Grant Removal of Condition 6
Conditions and Reasons:

1. The development hereby permitted shall be begun no later than 28th January 2028.
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 LP1, LP2, LP3, LP21, LP22, LP24, LP27, LP28, LP30, LP31, LP50, LP52, LP53 and LP61 of the Kirklees Local Plan, the guidance within the Council's Highways Design Guide SPD and the aims of the National Planning Policy Framework.

3. The drying room hereby approved shall be faced in timber cladding for the external walls. The materials of construction shall thereafter be retained for the lifetime of the development.
Reason: This condition is necessary in the interest of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and the aims of Chapter 12 of the National Planning Policy Framework.

4. The recreational space hereby approved shall be faced in timber cladding for the external walls and would feature elements of black cladding as per the Proposed Elevations South and East drawing (reference no. 2100, dated 18th December 2023) and the Proposed Elevations North and West drawing (reference no 2101, dated 18th December 2023). The materials of construction shall thereafter be retained for the lifetime of the development.

Reason: This condition is necessary in the interest of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and the aims of Chapter 12 of the National Planning Policy Framework.

5. Notwithstanding the submitted plans and details, the storage containers hereby approved shall be faced in Pebble Grey (RAL 7032) for the external walls. The materials of construction shall thereafter be retained for the lifetime of the development.
Reason: This condition is necessary in the interest of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and the aims of Chapter 12 of the National Planning Policy Framework.

6. The development shall be carried out in accordance with the document titled 'Club Flood Plan for Pennine Canoe Club' (dated January 2025) approved under permission 2025/90407.
Reason: In the interest of the safety of future occupiers with regards to flood risk in accordance with LP27 of the Kirklees Local Plan and the requirements of the National Planning Policy.

7. The development shall be carried out in accordance with the document titled 'Container Anchoring Scheme' (dated 5th February 2025) and 'Container Anchoring Scheme – Detail' (dated 6th February 2025, reference no. 1100-LGMH-01-00-DR-A-5000 revision P01) approved under permission 2025/90407.
Reason: To ensure that adequate and sustainable systems of drainage are employed in accordance with LP27 of the Kirklees Local Plan and the requirements of the National Planning Policy.

8. Whilst the area within the red line boundary submitted with this application is labelled as functional floodplain, main river flood zone 3b, the use associated with these containers must be 'water compatible' as defined as a flood risk vulnerability classification in National Planning Policy Framework. Changes of use to 'less vulnerable,' 'more vulnerable' and 'highly vulnerable' classifications are not permitted.
Reason: This condition is necessary to ensure the proposed development accords with LP27 of the Kirklees Local Plan and the requirements of the National Planning Policy.

9. If contamination, or the presence of coal not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all works 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 in the affected area shall not recommence until either (a) a Remediation Strategy by a suitably competent

person has been submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy.

Following completion of any measures identified in the approved Remediation Strategy a Verification Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as that part of the site has been remediated in accordance with the approved Remediation Strategy and a Verification Report in respect of those works has been 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. 196 and 197 of the National Planning Policy Framework.

10. The development shall be carried out in accordance with the information submitted in support of the application, including:

- D5 Planning – Updated Flood Risk Assessment (in response to EA Objections)
- Technical note - 2023/93783: Batteyford Playing Fields Flood Storage Volume Mitigation
- Email from Owen Phillips to Bev Lambert and Nicole Helliwell (Kirklees Council), 9 July 2024 at 2:50pm and the following mitigation measures they detail:
  - The cabins shall be raised to a minimum level of 450mm above ground level.
  - The void space beneath the cabins shall be maintained, unblocked and free of debris for the duration that development is physically in place.

The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.
Reason: To reduce the impact of the development on offsite flood risk in accordance with LP27 of the Kirklees Local Plan and the requirements of the National Planning Policy.

NOTE: All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework. 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: The granting of planning permission does not override any private legal rights or consents that may be required. It is the responsibility of the applicant / developer to ensure that all appropriate consents are in place prior to any development commencing; during the period of construction existing access for neighbouring properties is maintained; and no damage is caused to the access driveway or surrounding properties.

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

- 07.30 and 18.30 hours, Mondays to Fridays
- 08.00 and 13.00 hours, Saturdays
- With no working Sundays or Public Holidays

In some cases, different site-specific hours of operation may be appropriate. Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which the works may be carried out.

Plans and Specifications Table:

Plan Type	Reference	Revision	Date Received
Plans and details pursuant to 2023/93783			
Location Plan	1000	2	15/01/2024
Existing Site Plan	1009	2	15/01/2024
Proposed Floor Plans – Ground	1100	4	15/01/2024
Proposed Site Plan	1101	4	15/01/2024
Proposed Site Plan – Context	1102	2	15/01/2024
Proposed Elevations South & East	2100	3	15/01/2024
Proposed Elevations North & West	2101	3	15/01/2024
3D Visuals	9000	4	15/01/2024
3D Visuals	9001	2	15/01/2024
Proposed Fencing Drawing	0043-LGMH-XX-XX-DR-A-1000	P01	27/09/2024
Supporting Letter	TP1124	-	15/01/2024
Updated Flood Risk Assessment (in response to EA Objections)	-	-	09/05/2024
Flood Storage Volume Mitigation	-	-	21/06/2024
Football Ball Strike Assessment	LSUK.24-0580_FBRA	2.0	13/09/2024
Football Car Park Risk Assessment	FRM-Site-001	3	13/09/2024
Climate Change Statement	-	-	15/01/2024
Plans and details pursuant to 2025/90407			
Club Flood Plan for Pennine Canoe Club	-	-	14/02/2025
Container Anchoring Scheme	-	-	14/02/2025
Container Anchoring Scheme - Detail	1100-LGMH-01-00-DR-A-5000	P01	14/02/2025
Plans and details pursuant to 2025/91328			
Cover Letter	TP1124	-	14/05/2025

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 Planning Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2024 and otherwise actively engaged with the applicant in dealing with the application. In this case, the design of the original scheme has been found acceptable. No further amendments or details were sought thereafter.

Report Dated: 07/07/2025