

16 May 2025

Project/File: 333100993/A3/JC

VIA PLANNING PORTAL ONLY

Kirklees Metropolitan Council
Planning Services
PO Box 1720
Huddersfield
HD1 9EL

Dear Sir / Madam,

**Reference: SECTION 73 OF THE TOWN AND COUNTRY PLANNING ACT 1990
APPLICATION TO VARY CONDITION 2 ATTACHED TO PLANNING PERMISSION
REFERENCE: 2024/70/93522/E AT FORMER FRANKIE AND BENNYS AND
CHIQUITOS, CENTRE 27 BUSINESS PARK, BANKWOOD WAY, BIRSTALL, BATLEY,
WF17 9TB**

On behalf of our client, Quickcater Limited, ('the Applicant'), we hereby submit an application under Section 73 of the Town and Country Planning Act to vary Condition 2 (Approved Plans) attached to planning permission reference 2024/70/93522/E at the former Frankie and Bennys and Chiquitos, Centre 27 Business Park, Bankwood Way, Birstall, Batley, WF17 9TB ('the Site').

This Application is accompanied by the following documents and plans:

- Application Forms;
- Application Fee; and
- Soft Landscaping Plan (drawing no. 0000/2024/P122 Rev.B).

Background

Planning permission (reference: 2023/62/93781/E) was granted on 29th May 2024 for the demolition of existing buildings on the Site and construction of two drive-thru units and a flexible commercial unit. The description of development as shown on the decision notice is as follows:

“Demolition of existing buildings and erection of coffee shop with drive thru facility; drive-thru restaurant (class E and Sui Generis); flexible commercial unit (class E (a) and/or class E (b) and/or hot-foot takeaway Sui Generis Use); formation of hard and soft landscaping works; modifications to access and associated works”

Subsequently, a S.73 application (ref. 2024/70/93522/E) was submitted which sought to vary Condition 2 to make minor amendments to the footprint and elevations of two of the approved units at the Site, alongside minor parking and internal layout amendments. This was approved on 21st February 2025.

Reference: APPLICATION TO VARY CONDITION 2 ATTACHED TO PERMISSION REFERENCE 2024/70/93522/E

20 conditions are attached to the above planning permission, and the purpose of this planning application seeks to amend Condition 2 which states:

“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.”

Proposed Amendments

The Applicant is seeking to vary the approved landscaping scheme as shown on the approved Landscape Plan (drawing no. 18587 VEC XX XX DR L 1001) which is cited in relation to Condition 2 of permission reference 2024/70/93522/E

As the amendments do not affect any existing trees on the Site, updates to the Arboricultural Impact Assessment are not necessary.

An overview of the proposed changes are set out below.

- Removal of dense shrubbery along Gelderd Road. Due to the topography of the Site and proposed levels of the Starbucks unit, it is significantly sunken down from the main road. The approved shrubbery, therefore, hinders what little visibility there is to the building. New turf is now proposed in this location.
- 3no. Sanguinea Mid-winter Fire shrubs have been added to the northwest of unit 3.
- The refuse storage area by unit 3 has its route from the back door blocked by the approved planting. As such, this has been omitted to ensure access.
- Timber knee rails added to protect planting areas
- The approved tree and shrub specimens have been amended to Alder Buckthorn' (Frangula Alnus) Trees, Amanogawa' Cherry Blossom Trees, Sanguinea Mid-Winter Fire and Phorium 'Jester' shrubs.
- Sanguinea Mid-Winter Fire shrubs are now proposed in front of the EV charging bays as the previously proposed trees will affect the services required for this area.
- Larger area of planting is now proposed in the area to the southeast of the sub-station.
- 6no. approved trees along the drive-thru' lane of the KFC on the southeastern edge of the Site are proposed to be replaced with shrubs due to the levels change between the KFC unit and drive-thru' lane which is raised up with the retaining wall. As such, the originally proposed trees aren't appropriate with potential for root damage to the retaining wall structure and the hard surfacing of the drive-thru' lane.
- Replacement of shrubbery to the boundary around the KFC. This is crucial due to shrubbery around the building leading to pest control issues. As such, this area is now proposed to be turfed.
- Proposed planting at site entrance (to the south of the 7no. parking bays) omitted as car users often walk all over these areas at the side of parking bays from past experience on other sites.
- Replacement of previously proposed tree by the bays described above with additional planting area in front of those bays (where they won't get damaged)

Reference: APPLICATION TO VARY CONDITION 2 ATTACHED TO PERMISSION REFERENCE 2024/70/93522/E

It should be noted that the Landscape Plan has also been amended to reflect the building footprint and car parking amendments approved under permission reference 2024/70/93522/E.

The proposed amendments still seek to provide an attractive landscaping scheme at the Site through the provision of new trees, shrubs, and turf. The amendments will not remove any more existing trees than previously agreed and only seeks to amend the proposed planting scheme. These amendments are required for operational reasons and ensure good design, including enabling access to refuse areas, preventing vermin, and reducing the blocked views of the units. The proposed amendments are, therefore, considered compliant with Policy LP24 of the Kirklees Local Plan.

On the basis of the above, the Applicant is seeking approval for changes to the drawings cited in relation to Condition 2.

Variation to Condition 2

To reflect the above, the Applicant is seeking to replace the approved Landscape Plan (drawing no. 18587 VEC XX XX DR L 1001) as cited in the Plans and specification schedule pursuant to Condition 2 with the submitted Proposed Soft Landscaping Plan (drawing no. 0000/2024/P122 Rev.B).

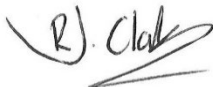
Summary

In summary, the proposed amendments are considered minor and will not raise any planning policy conflicts in the context of the approved development proposals.

We trust the above information is sufficient to be able to determine the application. If, however, you require anything further, please do not hesitate to contact me.

Yours sincerely,

STANTEC UK LIMITED

A handwritten signature in black ink that reads "Jordan Clark". The signature is written in a cursive style with a horizontal line underneath.

Jordan Clark
Senior Planner