

**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:	2025/70/91841/E
Site Address:	Dixon Hall And Co Ltd, Grafton Street, Batley, WF17 6AR
Description:	Variation of condition 2 (plans and specifications) on previous permission 2024/93177 for change of use from office building to residential apartments and associated alterations
Recommending Officer:	Edward Cheseldine

DECISION – VARIATION OF CONDITION - 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.

Emma Thompson

AUTHORISED OFFICER

Date: 02-Sep-2025

Officer Report

2025/91841 – Dixon Hall And Co Ltd, Grafton Street, Batley, WF17 6AR

Site Description

Dixon Hall & Co Ltd is a former office that served the wider industrial site. The building has part pebbled dash, part brick exterior walls and a flat roof. The building stands two-stories high, adjoining a warehouse. It rests on Grafton Street which has a mild gradient sloping from west to east. The building has an area of hardstanding to the rear which is shared with the other industrial units. The area is a mixed use, residential and commercial area. Retail and food outlets are situated to the north of the site, commercial properties including the adjoining building rest to the east and south. There are residential dwellings to the north-west and west of the site.

Application Proposal

The application is a section 73 application seeking permission to facilitate an 18-tonne truck to enter exit and turn within the site on Condition 2 of previous permission 2024/93177 application for permission for a Change of use from office building to residential apartments and associated alterations.

The applicant has submitted swept path plan authored by ATTP, reference, 23001/SPA/004 to demonstrate an 18 tonne vehicle can enter and maneuverer within the site due to the requirements of the adjacent site which the application site shares its access with.

Condition 2:

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 to ensure the satisfactory appearance of the development on completion, and to accord with Policy LP24 of the Kirklees Local Plan, and the aims of the National Planning Policy Framework.*

History of Negotiations

None necessary.

Relevant Planning History

2024/93177 - Change of use from office building to residential apartments and associated alterations – Full permission granted

Public Representation

The application was advertised by a site notice.

Site notice expiry: 22-Aug-2025

As a result of the publicity, there were no representations.

Consultation Responses

KC Highways – Assessed the swept path plans, they confirmed the plans were suitable demonstrating an 18 tonne vehicle can enter the site and manoeuvre safely. They recommended a condition that a Delivery Management Plan is submitted and approved in writing by the Local Planning Authority.

Policy & Legislation

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 unallocated on the Kirklees Local Plan Land Allocation Map.

On 12th 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 predates 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.

Kirklees Local Plan Policies

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 21** – Highway safety and accessibility
- **LP 22** – Parking
- **LP 24** – Design
- **LP 30** – Biodiversity & Geodiversity

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF)

published December 2024, and 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 12 – Achieving well-designed places
- Change 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

Assessment

Condition 2 is a standard condition attached to applications for planning permission that specifies the development is built in accordance with the submitted plans.

This application is made under S73 of the Town and Country Planning Act 1990, which allows for the ‘determination of applications to develop land without compliance with conditions previously attached’. In addition to removing conditions, S73 enables the varying of a condition’s wording. The effect of a granted S73 application is the issuing of a fresh planning permission. Therefore, all previously imposed conditions should be retained if they remain relevant. Conversely, the time limit for development to commence cannot be extended through a S73.

The starting point for a S73 application is the previously granted planning permission, which must carry significant material weight. However, consideration must first be given to whether any material changes in circumstances have taken place. This includes the policy and local context.

In terms of local context, there has been no changes in the environment (including built and natural) which would impact on the assessment of the application. There have been no changes to national or local planning policy that would change the assessment of the previous decision.

In light of the above, consideration must be given to the specific changes proposed and their interaction with adopted planning policy.

Principle of Development

The site is unallocated on the Kirklees Local Plan. In this instance, the principle of change of use from offices to residential dwellings on the site has already been established by the previous permission to which this application relates. It has been assessed that this variation would not impact the principle of development which remains acceptable.

Impact on Visual Amenity

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places and beautiful places) whereby paragraph 131 provides a principal consideration concerning design which states:

“The creation of high quality, beautiful and sustainable 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...”

There are no changes that would impact visually. The impact on visual amenity has previously been established by the previous permission to which this application relates. It has been assessed that visual alterations are acceptable on the character of the area.

In summary, the development accords with LP1, LP2 & LP24 of the Kirklees Local Plan.

Impact on Residential Amenity

Paragraph 135 of the National Planning Policy Framework states that Local Planning Authorities should seek to achieve a good standard of amenity for all existing and future occupants of land and buildings.

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.”

There will be no changes to the amenity of future and neighbouring occupiers as a result of an 18 tonne vehicle entering the site once a month, then what has previously been established under the previous permission 2024/93177.

In terms of an impact from noise, a further/addendum report specifying the measures to be taken to protect the development from noise from all significant noise sources that are likely to affect the proposed development will be conditioned as a pre-development condition as per the previous assessment under 2024/93177.

The development has been considered acceptable from a residential amenity perspective, to accord with Policy LP24 of the Kirklees Local Plan, and Chapter 12 of the NPPF.

Impact on Highway Safety

Policy LP21 states all proposals should ensure the safe and efficient flow of traffic within the development and on the surrounding highway Network.

Policy LP22 and the Kirklees Highways Design Guide Supplementary Planning Document are relevant insofar as they relate to parking provisions.

There will be a material change to the size of vehicles entering the site. Under application 2024/93177, the swept paths demonstrated a 7.5 tonne vehicle could safely enter and manoeuvre.

Under this application, the applicant has submitted a swept path plan to demonstrate the site can be accessed by an 18 tonne vehicle. The swept path plan authored by ATTP, reference, 23001/SPA/004 was assessed by KC Highways. They confirmed the swept paths illustrated a vehicle of this size can safely enter and manoeuvre. The vehicle will, however, be required to reverse to exit in a forward gear in the yard. KC Highways recommended a condition that a Delivery Management Plan is submitted to include details to supervise vehicles exceeding 7.5 tonnes whilst on site. Given the mixed use of the access and changes to the type of vehicle entering the site, this will be conditioned as part of this application.

It is to accord with Policies LP21 and LP22 of the Kirklees Local Plan and the aims of the Highways Design Guide SPD and National Planning Policy Framework.

Environmental Matters

Waste Management

Policy LP43 of the Kirklees Local Plan, seeks to safeguard suitable waste management facilities for developments to work towards achieving the objectives and targets for recycling/recovery for waste as set out in the Waste Framework Directive.

The storage and collection of waste storage will not be affected by plans. Whilst the size of the vehicle entering the site will be increased this is for the service of the adjacent site. It would not change the collection of waste than what has been established under the previous permission.

The storage details for residential dwellings are therefore accepted in terms of complying with LP43.

Biodiversity Net Gain & Ecology

Paragraphs 187, 193, 194 and 195 of 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.

Furthermore, Biodiversity Net Gain (BNG) came into effect for minor sites on 02 April 2024. There is a requirement to replace the loss of a habitat whilst delivering at least 10% biodiversity net gain.

Under application 2024/93177, the proposal benefitted from the *Di Minimis* exemption, there are no changes to the surfacing of the outdoor areas than what has been established under the previous permission.

Contaminated Land

Policy LP53 of the Kirklees Local Plan and paragraphs 189 and 190 of the National Planning Policy Framework are relevant which seek to ensure that a site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation.

The site was previously identified under application 2024/93177 as being potentially contaminated land due to its previous use as a laundry (our map ref 572/5). An unexpected land contamination condition will be applied to the decision notice in case land contamination is uncovered given development has not begun.

Construction Site Working Times

Construction working times are covered by other regulations, therefore it is not deemed necessary to add a secondary planning condition, however a footnote may be added.

Electric Vehicle Charging Points

The requirements for EV charging points are set out within the Air Quality & Emissions Technical Planning Guidance from the West Yorkshire Low Emissions Strategy Group, therefore a secondary planning condition is not necessary.

Carbon Budget

The proposal is a small scale development. As such, no special measures were required in terms of the planning application with regards to carbon emissions. However, there are controls in terms of Building Regulations which will need to be adhered to as part of the construction process which will require compliance with national standards.

Planning Conditions

National Planning Guidance confirms that for the purpose of clarity, decision notices for the grant of planning permission under Section 73 should set out all of the conditions imposed on the new permission, and restate the conditions imposed on earlier permissions that continue to have effect. This approach is reflected in this decision.

Conditions granted under planning application (2024/93177):

- Condition 1 (commencement) – Amended to reflect the date the permission was originally granted.
- Condition 2 (plans and specifications) - The wording of that condition will not change with the approval of this Section 73 application. However, the plans and specifications schedule referred to in that condition will be updated.
- Condition 3 (bin storage) - Refers to the scheme approved under 2024/93177. Remains a compliance condition.
- Condition 4 (noise assessment) - Refers to the scheme approved under 2024/93177. Remains a pre-commencement condition.
- Condition 5 (unexpected land contamination) - Refers to the scheme approved under 2024/93177. Remains a compliance condition.
- Condition 6 (TRO) - Refers to the scheme approved under 2024/93177. Remains a pre-commencement condition.
- Condition 7 (car park plan) - Refers to the scheme approved under 2024/93177. Remains a compliance condition.
- Condition 8 (biodiversity uplift) - Refers to the scheme approved under 2024/93177. Remains a compliance condition.
- Condition 9 – (boundary treatments) - Refers to the scheme approved under 2024/93177. Remains a compliance condition.

Conditions applied due to S73 Application

- Condition 10 (delivery management plan)

A draft list of conditions was shared with the applicant's agent on 28/08/2025. On 01 September 2025 the agent confirmed that these conditions were agreed.

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 development would constitute sustainable development and is therefore recommended for approval.

Recommendation: Grant Variation of Condition

Decision Authorisation - Delegated Powers

Application Number: 2025/91841

Officer Recommendation: Grant Variation of Condition

1. The development hereby permitted shall be begun before 26 February 2028.

Reason: Pursuant to section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

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 to ensure the satisfactory appearance of the development on completion, and to accord with Policy LP24 of the Kirklees Local Plan, and the aims of the National Planning Policy Framework.

3. Notwithstanding submitted plans, 1.80m closed panelled fencing shall be erected around the areas indicated as bin storage, bin presentation and cycle store, and thereafter retained. Gates shall be lockable to prevent from unauthorised use, flying tipping and thefts.

Reason: In the interests of waste management and security, to achieve a satisfactory layout and to comply with Policies LP21, LP22, LP24 and LP43 of the Kirklees Local Plan and chapter 12 of the NPPF.

4. Before construction work commences, a further/addendum report specifying the measures to be taken to protect the development from noise from all significant noise sources that are likely to affect the proposed development shall be submitted to and approved in writing by the Local Planning Authority. The report shall:

- a) Determine the existing noise climate
- b) Predict the noise climate in living rooms, bedrooms (night-time) and other habitable rooms of the development
- c) Detail the proposed attenuation/design necessary to protect the amenity of the occupants of the new residences (including ventilation if required).

The development shall not be occupied until all works specified in the approved report have been carried out in full and such works shall be thereafter retained.

Reason: To protect the amenity of occupiers of the proposed development from noise or disturbance from nearby noise generating premises 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.

5. In the event that 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.

6. Prior to occupation of the development, a scheme detailing measures to manage parking on Grafton Street and all associated works, together with appropriate Safety Audits submitted to and approved in writing by The Local Planning Authority. Unless otherwise agreed in writing no part of the scheme shall be brought into use until the approve scheme has been implemented.

Reason: In the interests of highway safety, to achieve a satisfactory layout and to accord with Policy LP21 of the Kirklees Local Plan.

7. The development shall not be occupied until the proposed car park hereby approved shall be laid out surfaced, marked out into bays and drained in accordance with details in drawing ref: 2120 LP02.

Reason: In the interests of highway safety, to achieve a satisfactory layout and to accord with Policy LP21 of the Kirklees Local Plan.

8. 2 no. bird boxes and 2 no. bat boxes shall be incorporated into the dwelling during the construction phase; the boxes shall be long-lasting Schwegler 'woodcrete' type or similar and shall be located away from

sources of light and be sited at least 4 metres above ground level. The bat and bird boxes shall be provided prior to first occupation of the development and thereafter be retained.

Reason: To enhance the biodiversity of the site in accordance with Policy LP30 of the Kirklees Local Plan, Principle 9 of the Housebuilders Design Guide SPD and Chapter 15 of the National Planning Policy Framework.

9. Prior to the occupation of the development, the boundary treatments shall be constructed and laid out in accordance with drawing 2120 LP02, hereby approved, which shall thereafter be retained.

Reason: So as to protect the amenity of the proposed occupier by reason of loss of privacy and in the interests of highway safety and comply in accordance with the requirements of Policy LP24 b) & LP21 of the Kirklees Local Plan and the provisions of the Kirklees Housebuilders Design Guide SPD.

10. No development shall take place until a Delivery Management Plan has been submitted and approved in writing by the Local Planning Authority. The Plan shall include details of the use of Banksman to supervise the safe access and egress of all vehicles exceeding 7.5 tonnes. The plan so approved shall be implemented before the development is brought into use and retained thereafter.

Reason: In the interests of highway safety and to achieve a satisfactory layout and to accord with LP21 & LP22 of the Kirklees Local Plan.

NOTE: The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer (Kirklees Street Scene: 01484 221000) regarding obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution.

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: Please note that the granting of planning permission does not override any private rights of ownership and it is your responsibility to ensure you have the legal right to carry out the approved works, as construction and maintenance may involve access to land outside your ownership.

NOTE: Due to its location, a roost may be present on site. Bats are a European species under regulation 41 of the Conservation of Habitats and Species Regulations 2010. It is an offence for anyone to intentionally 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 bats are present or not. If bats are discovered on site, development shall cease, and the applicant is advised to contact Natural England for advice.

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 13.00hours, Saturdays, with no working Sundays or Public Holidays. In some cases, different site-specific hours of operation may be appropriate.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Received via this Variation of Conditions Application: - 2025/91841			
Location plan	2120-LP01	A	04 July 2025
Swept paths	23001/SPA/004	-	04 July 2025
Received via Previous Planning Application: - 2024/93177			
Proposed block plan	2120-LP02	-	06 November 2024
Existing floor plans	2120-D00	A	06 November 2024
Existing roof plans	2120-D01	A	06 November 2024
Proposed floor plans	2120-P01	A	20 November 2024
Existing elevations - 1	2120-D02	A	06 November 2024
Existing elevations - 2	2120-D03	A	06 November 2024
Proposed elevations	2120-P02	-	06 November 2024
Car Park Plan	23001_SPA_001	D	09 January 2025

Car Park Plan	23001_SPA_002	D	09 January 2025
Car Park Plan	23001_SPA_003	D	09 January 2025
Proposed site survey	23004_SPA_001	A	06 November 2024
Proposed site survey	23004_SPA_002	A	06 November 2024
Acoustic report	-	-	06 November 2024
Design and access statement	-	-	06 November 2024

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2024 and guidance in the National Planning Policy Framework, the Local Planning Authority has, 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. No amendments were sought.