

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended)

**DELEGATED DECISION TO DETERMINE APPLICATIONS FOR
CONSENT, AGREEMENT OR APPROVAL REQUIRED BY CONDITION**

Reference No:	2025/44/92187/E
Site Address:	Frankie And Bennys, Centre 27 Business Park, Bankwood Way, Birstall, Batley, WF17 9TB
Description:	Discharge of details reserved by conditions 3 (Phase II Intrusive Site Investigation Report), 4 (Remediation Strategy), 6 (Verification Report), 8, 9, 11 (drainage), 17 (coal mining) on previous permission 2025/91401 for the variation of condition 2 (plans) on previous permission 2024/93522 for variation condition 2, 7, 12, 13, 14, 15, 16, 20 on previous permission 2023/93781 for 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
Recommending Officer:	Nina Sayers

DECISION – DISCHARGE OF CONDITIONS – SPLIT DECISION

I hereby authorise the partial 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: 14-Oct-2025

Officer Report

Site Description

Site address – Frankie And Bennys, Centre 27 Business Park, Bankwood Way, Birstall, Batley, WF17 9TB

Proposal – Discharge of details reserved by conditions 3 (Phase II Intrusive Site Investigation Report), 4 (Remediation Strategy), 6 (Verification Report), 8, 9, 11 (drainage), 17 (coal mining) on previous permission 2025/91401 for the variation of condition 2 (plans) on previous permission 2024/93522 for variation condition 2, 7, 12, 13, 14, 15, 16, 20 on previous permission 2023/93781 for 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

Assessment

Conditions 3, 4 and 6 – Land Contamination

Condition 3 reads as follows:

3. Excluding demolition, no groundworks (other than those required for a site investigation report) shall commence until a Phase II Intrusive Site Investigation Report by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.

Condition 4 reads as follows:

4. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 3 further groundworks (excluding demolition) 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.

Condition 6 reads as follows:

6. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Verification Report by a suitably competent person shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the remediation measures have been completed for the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Verification Report in respect of those remediation measures has been approved in writing by the Local Planning Authority

In support of the discharge of conditions 3,4 and 6 the applicant has submitted:

- Site Investigation Report by Crossfield Consulting, ref: CCL03808.CW07, dated April 2025

The above information has been reviewed by KC Environmental Health (EH). In relation to the gas risk at site they are informed 5 monitoring wells (DS1 to DS5), were visited on 4 occasions over a period of one month. The location of monitoring appears to be within the upper layers of made ground/clay. The results are presented and calculations based on the data indicate a gas screening value of CS1 for the site suggesting no gas protection measures are required. No commentary is given on the choice of depth/strata for the monitoring locations, particularly given that loss of flush and coal were encountered at slightly lower levels within the rotary boreholes. Whilst the report informs guidance has been followed KC EH note that the accepted Phase 1 report attributed a moderate risk to gas and required six visits over three months. KC EH also note that all barometric pressures are above 1000mb and recorded pressure fell once on the third visit but not below 1000mb. For these reasons KC EH do not accept the gas assessment presented. Additional information is required including a robust commentary on the location of monitoring, the number of monitoring visits undertaken and the pressures recorded as KC EH do not believe worst case scenario has been demonstrated.

A conceptual Site model is presented in Table 1; this appears to be a summary of the Solmec model from the Phase 1 report and not an updated model.

For the reasons given above in relation to the assessment of gas risk at the site the report cannot be accepted at this time. Conditions 3, 4, and 6 must therefore remain.

Condition 8 – Drainage Design Scheme

Condition 8 reads as follows:

8. Excluding demolition, development shall not commence until a detailed design scheme detailing foul, surface water and land drainage, including agreed discharge rate of 20.3 l/s indirectly or directly to watercourse, attenuation for the critical 1 in 100 + 40% climate change rainfall event, attenuation construction details /design, plans and longitudinal sections, hydraulic calculations and phasing of drainage provision has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a risk assessment and method statement, in accordance with CDM Regulations 2015, for access to and into the attenuation structure, and the scheme shall include a maintenance and management plan for surface water infrastructure. No part of the development shall be occupied until such approved drainage scheme has been provided on the site to serve the development or each agreed phasing of the development and retained thereafter.

In support of the discharge of condition 8, the applicant has submitted:

- Proposed SW Drainage Layout – 16209-2000, Rev T01.
- Proposed SW Exceedance Plan – 16209-2003, Rev T01.
- Typical Details – 16209-2400, Rev T01.
- Hydraulic Calculations – 16209-250604
- Tank Maintenance Schedule
- Klargest Oil Separator data Sheet.

The above information has been reviewed by the LLFA who confirms that the proposed allowable discharge rate of 20.3l/s. and discharge point to the YW Surface Water sewer are accepted. However they have the following comments:

- The hydraulic calculations indicate that the attenuation storage tank has a porosity of 1.0, however the tank is of a cellular type, and this figure is typically 0.95 to account for the structure of the crates within the tank. The porosity figure should be corrected and the calculations re-submitted.
- The oil separator appears to be draining both hardstanding and roof areas. It is common practice not to connect the roof drainage through the separator to avoid the flushing out of oils in heavy rainfall. The roof drainage from the buildings should therefore be connected to the outfall pipe between the separator and the flow control chamber
- The MH at the attenuation tank (SWMH7) should be of the silt trap type to reduce the risk of siltation within the tank.
- There is no indication how the attenuation tank can be accessed for inspection and maintenance. Please indicate how this tank will be maintained in the long term.
- The Maintenance Schedule on covers the tank, further details are therefore required for the maintenance of the flow control device, gullies, surface water drainage pipework, etc.

The developer will need to address the above comments with re-submitted details and, until the LLFA has reviewed these, Condition 8 cannot be discharged. Condition 8 must therefore remain.

Condition 9 – Drainage, Storm Events

Condition 9 reads as follows:

9. Excluding demolition, the development shall not commence until an assessment of the effects of 1 in 100 year storm events, with an additional allowance for climate change, blockage scenarios and exceedance events on drainage infrastructure and surface water run-off pre and post development between the development and the surrounding area (both upstream and downstream of the development), has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be brought into use (dwellings shall not be occupied) until the works comprising the approved scheme have been completed and such approved scheme shall be retained thereafter.

In support of the discharge of condition 9, the applicant has submitted:

- Proposed SW Drainage Layout – 16209-2000, Rev T01.
- Proposed SW Exceedance Plan – 16209-2003, Rev T01.
- Typical Details – 16209-2400, Rev T01.
- Hydraulic Calculations – 16209-250604
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The above information has been reviewed by the LLFA. The submitted flood exceedance routing drawing is accepted by the LLFA; for this condition to be discharged, no part of the development shall be brought into use (dwellings shall not be occupied) until the works comprising the approved scheme have been completed and the approved scheme shall be retained thereafter.

Condition 11 – Drainage, Surface Water

Condition 11 reads as follows:

11. Excluding demolition, development shall not commence until a scheme demonstrating surface water from vehicle parking and hard standing areas passing through an oil/petrol interceptor of adequate capacity prior to discharge. Roof drainage should not be passed through any interceptor.

In support of the discharge of condition 11, the applicant has submitted:

- Proposed SW Drainage Layout – 16209-2000, Rev T01.
- Proposed SW Exceedance Plan – 16209-2003, Rev T01.
- Typical Details – 16209-2400, Rev T01.
- Hydraulic Calculations – 16209-250604
- Tank Maintenance Schedule
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The above information has been reviewed by the LLFA who confirms that the details provided are acceptable; therefore Condition 11 can be discharged.

Condition 17 – Coal Mining

Condition 17 reads as follows:

17. No development shall commence until;

- a) a scheme of intrusive site investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;*
- a) 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 authoritative UK guidance.

In support of the discharge of condition 17, the applicant has submitted:

- Phase II Site Investigation Report – CCL03808.CW07

The Mining Remediation Authority have been consulted on the discharge of condition 17 however no comments have been received.

Condition 17 is a prescriptive planning condition that does not need to be discharged. It sets a required standard that must be adhered to. It does not require that any details be provided, to demonstrate compliance or otherwise. Condition 17 must therefore remain.

Decision Notice Text

Conditions 9 and 11 can be discharged.

Condition 3, 4, 6, 8 and 17 cannot be discharged and must remain.

Conditions 3, 4 and 6 – Land Contamination

In support of the discharge of conditions 3, 4 and 6, the applicant has submitted:

- Site Investigation Report by Crossfield Consulting, ref: CCL03808.CW07, dated April 2025

The above information has been reviewed by KC Environmental Health (EH).

For the reasons details in the officer report, the details submitted are not sufficient to discharge conditions 3, 4 and 6. Conditions 3, 4, and 6 must therefore remain until further notice.

Condition 8 – Drainage Design Scheme

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The porosity figure should be corrected and the calculations re-submitted.

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The developer will need to address the above comments with re-submitted details and, until the LLFA has reviewed these, Condition 8 cannot be discharged. Condition 8 must therefore remain.

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The above information has been reviewed by the LLFA. The submitted flood exceedance routing drawing is accepted by the LLFA; for this condition to be discharged, no part of the development shall be brought into use (dwellings shall not be occupied) until the works comprising the approved scheme have been completed and the approved scheme shall be retained thereafter.

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The above information has been reviewed by the LLFA who confirms that the details provided are acceptable; therefore Condition 11 can be discharged.

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In support of the discharge of condition 17, the applicant has submitted:

- Phase II Site Investigation Report – CCL03808.CW07

The Mining Remediation Authority have been consulted on the discharge of condition 17 however no comments have been received.

Condition 17 is a prescriptive planning condition that does not need to be discharged. It sets a required standard that must be adhered to. It does not require that any details be provided, to demonstrate compliance or otherwise. Condition 17 must therefore remain.