

**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>2025/62/92939/E</b>
Site Address:	32, Commercial Street, Batley, WF17 5EY
Description:	Siting of extraction equipment to rear
Recommending Officer:	Elenya Jackson

**DECISION – Full Conditional 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.**

Kirsty Nicholls

***AUTHORISED OFFICER***

**Date:** 15-DEC-2025

## **SITE DESCRIPTION – 2025/90362**

32, Commercial Street, Batley, WF17 5EY

The application site is a large brick semi-detached unit which is situated on the junction between Commercial Street, Well Lane, and Cross Street. The site immediately abuts the pavement on its southern elevation.

The street scene is mixed use with shops, restaurants with residential units above. Adjacent to the site is a Tesco Extra and associated parking.

## **DESCRIPTION OF PROPOSAL**

The proposal seeks planning permission for the addition of an extract flue to the east of the site which would therefore be to the rear of no.28.

Whilst the application relates solely to the installation of a flue and not the change of use of the premises, it is noted that Class E of the Town and Country Planning (General Permitted Development) (England Order) 2015 permits the use of premises for the consumption of food and drink mostly on the premises.

The submitted floor plans indicate that the internal layout of the building would remain the same as existing and the application form states that the premises is in a Class E use. On this basis it is considered that the former use (DIY store) and use stated in the plans would both require to fall within Class E for a further change of use to not be required.

The supporting details for this application state that the property would be used as a restaurant operating from 11am to 11pm 7 days a week. However, should the premises be used primarily as a hot food takeaway (sui generis), this would require planning permission.

The application has been assessed on the basis of the information provided.

## **HISTORY OF NEGOTIATIONS/AMENDMENTS RECEIVED**

An updated installation report was requested by officers as it referred to a hot food takeaway and not a restaurant.

## **RELEVANT HISTORY**

2023/91822: Advertisement Consent for erection of non-illuminated signs.  
Advertisement consent granted.

## **PUBLIC/MEMBERS RESPONSE**

This application has been publicised this application via a site notice which expired on 20/11/2025.

Following the above publicity, no representations were received

No parish/town council comments are required in this instance.

## **CONSULTATION RESPONSES**

**K.C. Environmental Health** – Conditions required

## **POLICY**

The site is located within a Local Centre Boundary.

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).

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

- **LP 1**– Achieving sustainable development
- **LP 2** – Place shaping
- **LP13** – Town centres
- **LP 24** – Design
- **LP52** - Pollution

### **National Policies and Guidance:**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF 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 7** – Ensuring the vitality of town centres
- **Chapter 12** – Achieving well-designed places
- **Chapter 14** – Meeting the challenge of climate change, flooding & coastal change.
- **Chapter 15** – Conserving and enhancing the natural environment

## **ASSESSMENT**

### **Principle of development:**

The site is without notation on the Kirklees Local Plan. Chapter 2 of the NPPF introduces the presumption in favour of sustainable development, which is enshrined in Policy LP1 of the Kirklees Local Plan. 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 LP24 in relation to design requires that the form, scale, layout, and details of all development “respects and enhances the character of the townscape, heritage assets and landscape...”

The principle of a flue within the vicinity has been established as properties to the west of the site have visible air conditioning flues in close proximity to the street scene.

It should also be noted that the site is within the defined local centre. The addition of a flue would assist a future business thereby promoting the vitality and viability of this local centre. The development, in principle would accord with Policy LP13 and Chapter 7 of the NPPF. Subject to considerations in respect of visual amenity and impact on any nearby sensitive users the development can be supported.

### **Impact on visual amenity**

The proposal would be located on the eastern elevation of the building. Due to the scale of the development and its location, it would have limited vantage points from the public realm.

The submitted plans indicate that the flue would be silver which is considered typical for a structure of this nature and as previously mentioned, other extraction facilities in the area are silver; therefore, the proposal would not be considered overly discordant with the character of the area.

The existing use class of the site would not be amended as the description of development relates only to the extraction equipment.

Therefore, the proposal is in accordance with Policies LP24 of the Kirklees Local Plan.

**Impact on residential amenity:**

The property is located in a mixed use area.

There are no residential properties immediately adjoining the application site and the nearest confirmed residential property would be approximately 28m away.

There is a previous permission relating to the first floor of no.28; however, using internal GIS systems, this is not currently registered as a dwelling on council records.

Due to the nature and location of the development, there are no concerns regarding detrimental impact due to overlooking, overshadowing/loss of light or overbearing.

The application has been supported by a noise impact assessment which states that the noise level of the extract system would be 17 decibels lower than the background noise levels which would be considered acceptable.

Details of odour controls have also been provided, and it has been considered that the site would need a high level of odour control. Specifics of this have been provided that confirm the scheme would provide a) a canopy to cater for medium loading (0.35 m/s); b) pre-filters and carbon filters to achieve a 0.2 to 0.4 second residence time; and c) a high velocity jet cowl.

The facilities would need to be installed and maintained as per the schedule in section 5 of the *EMAQ Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems* assessment. Mitigation Measures. In the event that planning permission be approved, it is recommended that this be secured via a suitably worded condition. Officers also recommend adding a condition requiring details of how fats will be prevented from entering the drainage network.

With regard to opening hours, the application form states the proposal would operate from 11am to 11pm. Officers have reviewed the context of the area and consider this is in keeping with other properties within a similar use.

All the above has been discussed with the Council's Environmental Health officers who raised no objections subject to the inclusion of the aforementioned conditions.

Therefore, the proposal would comply with Policies LP24 and LP52 of the Local Plan and Chapter 15 of the National Planning Policy Framework.

**Impact on highway safety:**

The proposal is for the addition of an exaction canopy therefore no consultation with KC Highways was deemed necessary. There are no implications for highway safety in this case.

**Other matters:**

*Climate Change*

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 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.

Due to the size, scale and limited nature of development, it was not considered necessary to request specific measures to address the development's 'resilience to climate change.

*Biodiversity Net Gain:*

The development does not involve any addition to the footprint of the building. The applicant states on the application form that the development is de minimis and below the threshold, and therefore BNG is not applicable in this instance.

## **Representations:**

None received.

## **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.

## **Decision Authorisation - Delegated Powers**

**Application Number:** 2025/92939

**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 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, in the interests of residential amenity and highway safety and to accord with Policies LP1, LP2, LP21, LP22, LP24, and LP52 of the Kirklees Local Plan, and Policy within the National Planning Policy Framework.

3. The development shall be carried out in accordance with the measures specified in the noise impact and odour risk assessment dated 19<sup>th</sup> September 2025. Such measures shall be thereafter retained for the lifetime of the development.

**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.

4. Before any food cooking commences on site, the kitchen extract system as specified in the noise impact and odour risk assessment dated 19<sup>th</sup> September 2025 shall be installed. The kitchen extract system shall operate at all times during the preparation and cooking of food and be maintained in accordance with the manufacturer's instructions and as specified in the report for the lifetime of the development.

**Reason:** To ensure the proposed development does not cause harmful odour pollution within either a public area or at neighbouring premises in the interest of amenity, to comply with the aims and objectives of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

5. Cooking shall not commence until a scheme to prevent fats, oils, and grease entering the drainage network serving commercial food preparation and dish-washing areas has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to first operation of the development and shall be retained throughout the lifetime of the development.

**Reason:** To ensure the provision of adequate and sustainable systems of drainage are employed, in the interests of amenity, and environmental well-being and to comply with LP44 of the Local Plan and Chapter 15 of the National Planning Policy Framework.

**NOTE** The applicant is advised that Kirklees Council has 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** Detailed advice is available in "Control of Odour and Noise from Commercial Kitchen Exhaust Systems" by EMAQ Sep 2018 which is an update of "Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems" by DEFRA 2005.

**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.

Plans and specifications schedule: -

<b>Plan Type</b>	<b>Reference</b>	<b>Date Received</b>
Location Plan		20.10.2025
Proposed Plans and Elevations	D02 Rev:A	20.10.2025
Noise Impact Assessment and Odour Risk Assessment	NIA&ORA/1419/25/519/ v1.0/32	20.10.2025
Installation Report		10.12.2025

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. The Case Officer requested supporting documents were amended to correctly reflect the description of development.