

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:	2025/62/92955/E
Site Address:	Unit 9 To 10, Birstall Shopping Park, Holden Ing Way, Birstall, Batley, WF17 9DT
Description:	Formation of mezzanine floor and associated external alterations
Recommending Officer:	Elenya Jackson

DECISION – Full Planning Permission – Approve

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.

Nicholas Hirst

AUTHORISED OFFICER

Date: 21/01/2026

Officer Report

Reference: 2025/92955

Location: Unit 9 To 10, Birstall Shopping Park, Holden Ing Way, Birstall, Batley, WF17 9DT

Proposal: Formation of mezzanine floor and associated external alterations

Site Description

The application site is an existing large retail unit, located within Birstall, 1.1 miles north-east of Birstall district centre. Due to the site's location in the north east of the Kirklees district, the closest residential settlement is Adwalton which is located in the Wakefield District, 600m to the north-west. The site is accessed via Holdening Way, which is located off of Gelderd Road, southwest of the A62 roundabout, adjacent to junction 27 of the M62. The site is located within the Birstall Shopping Park retail park, with other commercial units to the south and west, with significant shared car parking around the retail park.

The unit is currently occupied by the company 'DFS'. The front elevation of Units 9 and 10 is typical of a retail showroom, presenting a large, horizontal frontage directly onto the main customer car park. It features a glazed customer entrance, set within a canopy structure that extends across the frontage to provide weather protection. Above this, the elevation incorporates prominent DFS branding, including large signage panels and the company's logo, positioned symmetrically either side of the entrance. In addition to the principally open plan sales area extending across most of the floor plate, a small mezzanine level exists within the unit, providing additional back-of-house storage space above part of the ground floor accommodation. The existing mezzanine currently comprises approximately 67m² of gross internal area.

The site is unallocated within the Kirklees Local Plan; however, it resides directly adjacent to several priority employment areas and is within a high-risk coal area.

Description of Proposal

Planning permission is sought for the erection of a mezzanine floor within the building to create additional retail space and alterations to the existing fenestration on the building to elongate the glazing to include the first floor.

The proposed mezzanine would provide a gross internal area of 1,152m², comprising 976m² of sales space and 171m² of staff/back-of-house facilities. The proposed mezzanine would allow for a more spacious and flexible layout, while also accommodating improved customer and staff facilities within the store. In total, the overall store floorspace will increase from 1,895 m² GIA to 2,980 m² GIA, reflecting the addition of the mezzanine.

Externally, the proposed front elevation introduces a reconfigured customer entrance and glazing arrangement. The proposed entrance feature would have a larger glazed section and clearer framing, giving greater prominence to the main entry point by increasing the vertical window spacings.

On the side elevation, the windows are also amended in the north-west corner of the site in order to follow the changes to the front elevation.

This application does not extend to any signage alterations as these would be subject to an advertisement consent.

Negotiations

No negotiations were required as the application as submitted was considered acceptable.

Relevant Planning History

Application site

2021/93033: Advertisement Consent for erection of illuminated sign – Granted.

Surrounding Area

Given the nature of the site, being a dense retail park hosting numerous units, there are many planning applications within the surrounding area. None are considered relevant to the proposal.

There are historic decisions related to the installation of mezzanine floors within the wider site; however, these were prior to the of The National Planning Policy Framework.

Representations

Final publicity date expired: 12/12/2025

The application has been advertised as a major development via site notices and along with being advertised within a local newspaper. This is in line with the Council's adopted Development Management Charter

In response to the publicity undertaken, no representations were received.

Consultation Responses

KC Highways Development Management: Informal discussion held. Highway officers reviewed the case and commented that the resultant increase in floor space would not generate a substantial increase in the number of trips to and

from the site and that the large communal car parking serving the retail park was adequate. Therefore, they hold no objections to the proposal.

KC Policy: Comments received 14/11/2025. KC Policy reviewed the supporting documents which included a sequential test and a retail impact assessment. The parameters for the sequential test are considered acceptable and the sequential test is considered to have been passed. In addition, officers would concur with the retail impact assessment provided that states there are no direct competitors within relevant centres which would be impacted by the proposal. Therefore, KC Policy would have no objections to the proposal with no conditions requested.

Policy and 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).

Kirklees Local Plan (LP)

The site is unallocated on the Kirklees Local Plan.

The following policies are those relevant to the proposal:

- LP1 – Presumption in favour of sustainable development
- LP2 – Presumption in favour of sustainable development
- LP13 – Town Centre uses
- LP21 – Highway safety and access
- LP22 – Parking
- LP24 – Design
- LP47 – Healthy, active and safe lifestyles
- LP52 – Protection and improvement of environmental quality

The following are relevant Supplementary Planning Documents or other guidance documents published by, or with, Kirklees Council;

Supplementary Planning Documents

- Highways Design Guide SPD (2019)

Guidance documents

- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)

National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF), the Planning Practice Guidance Suite (PPGS), 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 7 – Ensuring the vitality of town centres
- Chapter 8 – Protecting healthy and safe communities
- Chapter 12 – Achieving well-designed places

A consultation draft of the National Planning Policy Framework (the Framework) was published on 16 December 2025. As a consultation, the document is at an early stage and subject to change. Accordingly, for the purposes of this application, no weight is given to the current consultation document.

Other relevant national guidance and documents:

- MHCLG: National Design Guide (2021)

Climate change

The Council approved Climate Emergency measures at its meeting of full Council on 16/01/2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.

On 12/11/2019 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 would use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

Access and Equality

Since the application is for alterations to an existing building, it is considered that it does not raise access issues or other issues under the Equality Act.

Assessment

The following matters are considered in the assessment below

- 1) Principle of development
- 1) Economic impacts
- 2) Impact on visual amenity (including any heritage considerations)
- 3) Impact on residential amenity
- 4) Impact on highway safety
- 5) Other matters
- 6) Representations
- 7) Conclusion

Principle of Development

NPPF Paragraph 11 and Policy LP1 of the Kirklees local plan outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation. The dimensions of sustainable development will be considered throughout the proposal.

Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.

The site is without notation on the KLP Policies Map. Policy LP2 states that:

“All development proposals should seek to build on the strengths, opportunities and help address challenges identified in the local plan, in order to protect and enhance the qualities which contribute to the character of these places, as set out in the four sub-area statement boxes below...”

With particular relevance to the proposal, those strengths, opportunities and challenges to sustainable development in the Kirklees District have been considered in the Kirklees Local Plan Policies to aid sustainable development enhancing the area's character unless other material planning considerations indicate otherwise.

Town Centre Use

Chapter 7 of the NPPF relates to the ensuring the vitality of town centres. Paragraph 90 of the NPPF outlines that planning decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.

Paragraph 91 of the NPPF states that Local Planning Authorities should apply a sequential test to planning application for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Paragraph 90 of the NPPF goes on to state that main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre locations be considered.

The NPPF defines edge-of-centre location as being those within 300m from a town centre boundary.

Policy LP13 of the Kirklees Local Plan is consistent with Government guidance contained within the NPPF stating that within Kirklees, main town centre uses shall be located within defined centres (principal centres, town centres, district centres, and local centres), as shown on the Policies and Town Centre Maps, and as detailed in the shopping centre hierarchy and then in accordance with the sequential test.

Policy LP13 goes on to note that proposals which come forward for main town centre uses, which are located outside of the defined centre boundaries, will require the submission of a Sequential Test. Policy LP13 states that for retail proposals the boundary shall form the Primary Shopping Area; for all other main town centre uses this shall be the extent of the centre boundary. Main town centre uses shall be first located in the defined centres, then edge of centre locations and only if there are no suitable sites shall out of centre locations be considered.

Further detail on the Sequential Test is provided in paragraph 9.12 of the Local Plan which supports Policy LP13, and this states that a Sequential Test will need to provide evidence of the following:

- The business model for the development.
- An appropriate catchment that the business will seek to serve in accordance with the Shopping Centre Hierarchy Table
- An appropriate audit trail of any sequentially preferable sites that have been discounted with a robust justification.

The proposal is to extend an existing retail unit (Class E), a main town centre use, to create additional first floor retail accommodation. It would provide an additional gross internal area of 1,152m², with 976m² of this being sales space.

As the site is located approximately 1,800 metres away from Birstall district centre and further still from Gomersal local centre, this site is in an out-of-centre location, and a Sequential Test has been required to be submitted alongside this application¹.

¹ Within the Supporting Document titled 'Planning Statement INSERTION OF MEZZANINE FLOOR AND ASSOCIATED MINOR EXTERNAL ALTERATIONS'.

Within the sequential test provided, the parameters provided were as follows:

- *Batley, Birstall, Heckmondwike and Cleckheaton centres have been identified as the catchment*
- *An existing building of circa 2,980 m² gross in good condition to ensure occupation and conversion to furniture retail provision. Such a unit should have a footprint of circa 1,828 m² gross with the ability to incorporate a mezzanine floor.*
- *Large open plan format with good internal heights; and*
- *Availability of car parking adjacent to building.*

K.C. Policy have been consulted as part of this application. They concur that the identified catchment area (Batley, Birstall, Heckmondwike and Cleckheaton) is reasonable and proportionate because they are the closest centres within the district to the existing development and have been considered to be the most relevant in retail planning terms.

In terms of sequentially preferable sites within the catchment, K.C. Policy agree with the summary of the sequential test provided by the applicant.

The supporting documentation sets out that the centres have been selected as they are the closest centres which are considered to have the potential to cater to the retail offering of the proposal, opposed to local centres which would not be spatially appropriate for the scale of goods to be sold.

A list of potential sites both within and outside of the selected centres have been offered as part of the sequential test; however, all identified options were discounted due to availability, size and/or suitability.

For example, within Birstall one out of centre use was identified which was discounted due to the size. Birstall Town Centre had no units within the centre due to there being no available units of a suitable scale and the one out of centre unit was also too small.

Heckmondwike Town Centre had two potential sites within the local centre, which were discounted due to the internal configuration not being appropriate for accommodating the applicant's business which is consistent the two proposed sites within Cleckheaton.

To validation the submitted report, K.C. Policy have conducted their own desktop search and concluded there are no available and suitable stores in the agreed area of search that meet the requirements of the applicant, even accounting for flexibility in scale and format.

Given that there are no reasonable sequentially preferable options within the accepted search area, the proposal is concluded to have passed the sequential test.

In accordance with LP13 of the Kirklees Local Plan, as the proposal would be creating more than 500m² of floor space and is not located within a defined

centre, a retail impact assessment is also required to support the proposal. This too has been provided. The applicant has submitted information relating to the existing retail makeup of the relevant centres (Batley, Birstall, Heckmondwike and Cleckheaton), including potential competing units and an assessment of the health of these centres in order to understand any potential trade diversion caused by the application.

The retail impact assessments starts with conducting a review of the vitality of the relevant centres by reviewing their 'health' and states that Birstall is considered a strong and viable centre meeting the day to day needs of the community as it has limited vacant units, Batley, although experiencing an increase in vacancy levels is to receive significant investment via the 'Revival Scheme', Heckmondwike experiences a vacancy rate of less than the national average and would too be considered strong and viable and finally, Cleckheaton also has a vacancy rate of less than the national average and has a solid retail foundation.

As the proposal would be located outside of these centres, an assessment of the impact of the proposed development has been required.

The following is the assessment provided by the applicant:

5.116 With regard to 'impact on investment' we do not consider there to be any existing, committed and planned public or private investment in the centres that would be called into question. There are no known investments that need be considered in the context of the proposed development.

5.117 In relation to 'impact on local consumer choice', we consider the proposal would deliver positive benefits by expanding choice in the furniture sector with particular reference to sofa furniture retailers.

Officers concur with the above assessment. There are no known investment projects which would be undermined by the proposal. In terms of consumer choice, as an extension to the existing business, the proposal will enhance choice at the site without introducing a new retail unit which could directly compete with existing businesses within local centres.

5.118 With regard to impact on the vitality and viability of the centres, we consider the proposed insertion of the mezzanine floor would not give rise to any noticeable levels of trade diversion from existing centres. The furniture retail offer in identified centres is very limited in terms of stores devoted to the sale of furniture only. In this context most furniture sales in the existing centres is focussed on smaller items and largely second hand furniture in charity shops. In some cases there are no furniture sales.

5.119 As already indicated, any impact assessment must be proportionate to the nature and scale of the proposed development. DFS already occupy the existing unit. The uplift in sales area from the

insertion of the mezzanine would deliver a limited uplift in turnover of the store.

5.120 In addition, having regard to the above, there are no major furniture retailers in the existing centres retailing predominantly sofas that would be susceptible to trade diversion should the proposed mezzanine progress. Therefore, we would not anticipate trade diversion from those existing centres.

5.121 Existing furniture sales are focussed in existing out of centre retail units including those at the Birstall Shopping Park and other out of centre locations. As highlighted earlier this includes retailers across the wider retail park such as Ikea, Sofology, NCF Living, Natuzzi Italia, Furniture Village and Barker & Stonehouse.

5.122 Further afield is the Batley Enterprise Area, which includes a number of units along and around Bradford Road and the Centenary Way/Churwell Avenue area providing a number of sofa and furniture operators including JS Furniture, Cosy Sofas Outlet, Kozzzy Living Ltd, Furniture Mill Outlet, Dreamers Furniture Outlet, and Urbansuite Batley.

5.123 As can be seen existing provision of furniture retailers are concentrated outside established and defined 'centres' and therefore we do not consider that material planning impact concerns would arise in this case.

Officers and K.C. Policy have reviewed the above. In conclusion, it is accepted that there are no direct and comparable competitors within these centres and that the only main competitors that could be impacted by the proposals are other out of centre furniture stores, which have no policy protection.

In this instance the conclusions are considered to be appropriate and reasonable, and given the scale of the proposals to provide increased floorspace at an existing business, it is not expected to lead to any significant harm to the vitality and viability of the identified relevant centres.

Therefore, it is considered that the proposal would not detract from the vitality or viability of any of the assessed local centres. The proposal is acceptable in principle subject to an assessment of amenity and other issues below, it would accord with the aims of Policy LP13 of the Local Plan and Chapter 7 of the NPPF.

Impact on Visual Amenity

Policy LP24 of the Kirklees Local Plan refers to design and states that good design should be at the core of all proposals in the district and this should be implemented by ensuring the form, scale, layout and details of all development respects and enhances the character of the townscape.

Officers have reviewed the proposal and consider that the elongation of the windows would not significantly impact the character of the host building nor harm the established character of the area, which is defined by large retail units that feature glazed frontages.

When assessing the design of the building in the context of the area, officers consider that there is variation in the design of units within the retail park, with other units also having two levels of retail accommodation, namely Next and Bensons for beds to the northwest of the site. Officers therefore consider that the proposal would not be materially out of keeping with the character of the area.

Due to the proposal featuring external alterations to facilitate the development, officers consider it appropriate to recommend a condition ensuring that all external facing materials would match those used on the existing building to ensure the scheme would harmonise with the existing building and be in keeping with the wider development.

The proposed developments therefore comply with the aims of Policy LP24(a) and with Chapter 12 of the NPPF.

Impact on Residential Amenity

Policy LP24(c) of the Kirklees Local plan refers to residential amenity and states that good design is promoted by ensuring a high standard of amenity for future and neighbouring occupiers.

The proposal is located within a retail park with no residential units in close proximity.

For these reasons, the proposal would not result in harm to amenity of nearby residents and would comply with the aims of Policies LP24 and LP52, and those of the NPPF Chapter 15.

Impact on Highway Safety

Policy LP21 of the Kirklees Local Plan relate to access and highway safety and are considered to be relevant to the consideration of this application. Furthermore, Policy LP22 seeks to ensure adequate parking is provided. The Council's adopted Highway Design Guide, which seeks to ensure acceptable levels of off-street parking are retained, is also considered to be of relevance.

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.”

The site is located within an existing retail park. No new road works are proposed and access arrangements are established. Furthermore, the retail park, as existing, benefits from ample parking spaces and previously agreed access routes.

The application has been informally reviewed by K.C. Highways. They confirm no objection to the proposal, and no further comments have been made as the proposal would be increasing the existing retail provision on site and not diversifying the products or amending the use.

The proposal would not result in the displacement of any existing car parking spaces, as it would not be increasing the overall footprint of the development due to the increased floor space being internal, as a result of a mezzanine floor. As the proposal would not significantly increase the number of trips to and from the site, it is considered that additional parking provision would not be required in this instance as many of the trips generated would be linked trips in association with other retail provision on site and the transport statement submitted in support of this application outlines that occupancy levels of parking spaces at Birstall Retail Park (the location of the proposal) and Junction 27 operate at 71% of their capacity.

As the proposal does not include new car parking provision, the provision of Electric Vehicle Charging Points (or seeking them via condition) is not deemed necessary.

Waste storage and collection arrangements would be unaffected by the proposal and continue as existing.

Therefore, for these reasons, the proposal accords with the aims of Policies LP21, and 22 of the Kirklees Local Plan

Other Matters

Ecology and Biodiversity Net Gain

Policy LP30 of the Local Plan confirms that the council will seek to protect and enhance the biodiversity and geodiversity of Kirklees.

Given the nature of the proposal, namely that site is wholly hard surfaced and is substantially occupied by a modern building, ecological reports and surveys are not considered necessary to support the proposal.

The provision of a Biodiversity Net Gain (BNG) of 10% is a mandatory requirement for developments in England under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) (hereafter the Act). This is subject to limited exceptions. Unless exempt, every planning permission granted pursuant to an application submitted after 12 February 2024 is deemed to have been granted subject to a pre-commencement condition requiring a Biodiversity Gain Plan to be

submitted and approved by the local planning authority prior to commencement of the development.

The applicant has claimed that the site is exempt from the BNG, as it is exempt. This is based on the justification that the site has no baseline habitat. Again, given that the site is wholly hard surfaced and is substantially occupied by a building, this is accepted by officers and BNG is not considered applicable in this case.

Climate Change

The application has been supported by a climate change statement which state that efforts would be made to reduce the energy demand of the building, minimise carbon emissions and waste during construction, use renewable or low carbon energy sources and address air quality impacts. The measures proposed are reasonable and proportionate to the proposal.

It is considered that these measures would be appropriate to the scale of the development and development is compatible with the Council's target of promoting carbon reduction. Considering the six tests for planning conditions, given the limited nature of the proposed works, a condition relating to climate mitigation measures is not, in this case, deemed to be reasonable or necessary for the proposal to demonstrate compliance with climate objectives.

Coal Mining Legacy

Policy LP53 of the Kirklees Local Plan refers to contaminated and unstable land and states that Development on land that is unstable, currently contaminated or suspected of being contaminated due to its previous history or geology, or that will potentially become contaminated as a result of the development, will require the submission of an appropriate contamination assessment and/or land instability risk assessment.

As previously highlighted, the site is within a high-risk coal area on the councils GIS system; however, as the alterations proposed are to the glazing on an existing unit and the creation of a mezzanine floor within said unit, it is considered the works would require minimal groundworks and would meet the Exemptions list provided by The Mining Remediation Authority.

Officers will include a note regarding development within a high-risk coal area on the decision notice for the developer's attention.

The application is considered to accord with LP53 of the Kirklees local plan and chapter 15 of the national planning policy framework.

Representations

No representations were 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.

Recommendation: Approval

Report Dated: 21/01/2026

Decision Authorisation: Delegated Powers

Application Number: 2025/92955

Officer Recommendation: CONDITIONAL FULL PERMISSION

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, and to accord with Policies LP13 of the local Plan and the aims of the National Planning Policy Framework

3. All external facing materials used during construction shall match those used in the existing host building and shall thereafter be retained for the lifetime of the development.

Reason: In the interests 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.

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Location Plan	0001	-	22.10.2025
Proposed block plan	0003	-	22.10.2025
Proposed elevations	0001	P02	22.10.2025
Proposed floor plans	0010	P00	22.10.2025
Proposed mezzanine	0011	P01	22.10.2025
Existing elevations			22.10.2025
Existing floor plans	0002	P00	22.10.2025
Existing site plan	0002	P00	22.10.2025
Transport statement			22.10.2025
Climate change statement			22.10.2025
Planning statement			21.11.2025

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 Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application.