

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:	2025/70/93312/E
Site Address:	HB Food Services, Vulcan Works, Vulcan Road, Eightlands, Dewsbury, WF13 2NA
Description:	Variation of condition 2 (plans) on previous permission 2020/92385 for erection of warehouse
Recommending Officer:	Nicole Helliwell

DECISION – APPROVE VARIATION OF CONDITION 2

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.

Sarah Longbottom

AUTHORISED OFFICER

Date: 26-Jan-2026

Officer Report

Reference No. 2025/70/93312/E

Site Address: HB Food Services, Vulcan Works, Vulcan Road, Eightlands, Dewsbury, WF13 2NA

Proposal: Variation of condition 2 (plans) on previous permission 2020/92385 for erection of warehouse

Site Description

The application relates to HB Food Services, an industrial site located off Vulcan Road in Eightlands, Dewsbury. The site is unallocated on the Kirklees Local Plan and the wider area comprises commercial and residential properties of varying materials and architectural styles. The site is not within a conservation area, nor are there any listed buildings or Public Rights of Way (PROW) within close proximity.

Description of Proposal

The applicant seeks consent to vary conditions 2 (Plans) of previous permission 2020/92385 for the erection of warehouse, which was granted on 22nd December 2020.

Condition 2 of permission 2020/92385 relates to the plans and details approved under the application and reads as follows:

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 Policies LP1, LP2, LP21, LP22, LP24, LP27, LP30, LP33 and LP53 of the Kirklees Local Plan and Chapters 5, 9, 12, 14 and 15 of the National Planning Policy Framework.*

This Section 73 application seeks to vary the approved plans due to changes to the design of the warehouse. The structure would be reduced in footprint from 963sqm to 705 sqm. The revised structure would have a length of approx. 45.3m, a depth of approx. 15.3m and an overall height of approx. 8.15m.

Relevant Planning History

- **2023/93176:** Discharge conditions 5 (site investigation), 10 (Japanese Knotweed), 11 (Ecological design strategy), 12 (drainage), 14 (construction drainage), 15 (swept path analysis), 18 (noise assessment), 19 (lighting), 21 (landscape) on previous permission 2020/92385 for

erection of warehouse. [Planning application details | Kirklees Council](#) - Discharge of Condition(s) Split Decision

- **2020/92385:** Erection of warehouse. [Planning application details | Kirklees Council](#) – Conditional Full Permission

Representations

The application was publicised by site notice, which expired on 9th January 2025. As a result of the above publicity, no representations have been received.

Consultation Responses

Not Applicable.

Policy

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 Proposals Map. The most relevant policies for consideration in this case are:

Kirklees Local Plan Policies

- **LP 1** - Achieving Sustainable Development
- **LP 2** - Place shaping
- **LP 21** - Highways and Access
- **LP 22** - Parking
- **LP 24** - Design
- **LP 28** - Drainage
- **LP 30** - Biodiversity and Geodiversity
- **LP 33** - Trees
- **LP 51** - Protection and Improvement of Local Air Quality
- **LP 52** - Protection and Improvement of Environmental Quality
- **LP 53** - Contaminated and Unstable Land

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, 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 6** - Building a Strong, Competitive Economy
- **Chapter 9** - Promoting Sustainable Transport
- **Chapter 12** - Achieving Well-Designed Places
- **Chapter 14** - Meeting the Challenge of Climate Change, Flooding and Coastal Change
- **Chapter 15** - Conserving and Enhancing the Natural Environment

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 Guidance Documents:

- Kirklees Highways Design Guide (2019)
- Kirklees Waste Management Design for New Development (2020)
- 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)

Assessment

1. Principle of development

Section 73 of the Town and Country Planning Act 1990 allows for the variation or removal of a condition of a previous permission.

The principle of development for the erection of a warehouse, was established under permission 2020/92385. As such, it is considered that the principle of the development remains established by way of this permission. This assessment will deal with the merits of the proposed variations only.

1. Impact on Visual Amenity

General design considerations are set out in Policy LP24 of the Kirklees Local Plan and Chapter 12 of the NPPF, which seek to secure good design in all developments by ensuring that they respect and enhance the character of the townscape and protect amenity. Policy LP24 of the Kirklees Local Plan states that *'the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape.'*

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed 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.”*

This proposal seeks to alter the scale and design of the approved warehouse building. The structure would be reduced in footprint from 963sqm to 705 sqm. The revised structure would have a length of approx. 45.3m, a depth of approx. 15.3m and an overall height of approx. 8.15m. Although the variation would alter the external appearance of the building, it is considered that the resultant building would have a better visual finish. As such, officers consider that the alterations proposed would not have any significant visual impact on the character and appearance of the surrounding area.

In view of the above, It is considered that the variation to the development proposed is acceptable from a visual amenity perspective and is in accordance with Policies LP24 of the Kirklees Local Plan and the aims of the NPPF.

2. Impact on Residential Amenity

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*”. Further to this, Paragraph 135 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

The proposed alterations are not considered to have a greater impact on the neighbouring occupants than the originally approved scheme. As such, the proposal would comply with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties and Paragraph 135 (f) of the National Planning Policy Framework.

3. Impact on Highway Safety

Local Plan Policies LP21 and LP22 of the Kirklees Local Plan are relevant and seek to ensure that proposals do not have a detrimental impact on highway safety and provide sufficient parking. Furthermore, 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.

Given the nature of the amendments proposed, no alterations would occur to the access and parking arrangements of the approved scheme. Therefore, the impact on highway safety is still considered acceptable and unchanged since the previously issued decision.

Given the above, Officers consider that the proposal would not cause detrimental harm to the safe and efficient operation of the highway network. The proposal is therefore considered to comply with Policies LP21 and LP22 of the Kirklees Local Plan, Chapter 9 of the National Planning Policy Framework, and advice contained within the Kirklees Highways Design Guide SPD.

4. Other Matters

With regard to other matters that were assessed as part of the previous planning permission (climate change, trees, ecology, contaminated land and drainage), the proposal is unchanged in relation to these aspects. As such, any conditions imposed in regard to these matters to make the development acceptable will be repeated as part of this application.

The information submitted with this application states that works were lawfully commenced in 2023 under the original application. The submitted information states that the initial phase of construction included the setting out and excavation of foundations and the formation of drainage channels. They are of the view that these activities constitute a meaningful start on site, and the permission therefore remains extant.

Conditions Review

As the application is a Section 73 application to vary and remove conditions, it is necessary to re-impose all conditions which remain relevant. The following conditions relating to the original permission will be re-issued as they are considered to remain relevant:

- 3. External Materials
- 4. Permeable surfacing
- 9. Removal of Trees, Shrubs or Scrub
- 13. Surface Water Drainage Infrastructure Details
- 16. Ancillary Warehousing
- 17. Electric Vehicle Charging Points
- 20. Additional Tree Works during Construction
- 22. Activities (including deliveries and dispatches)
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The following conditions relating to the original permission shall be reworded:

- 2. Approved plans (The plans and specification table will be amended to reflect the plans approved under this Section 73 application)
- 6. Remediation Strategy
- 7. Remediation
- 8. Validation Report

The following conditions are no longer relevant and will be removed:

- 1 (Time)
- 5. Phase II Intrusive Site Investigation Report (Discharged under permission 2023/93176)
- 10. Invasive Species Protocol (Discharged under permission 2023/93176)
- 11. Ecological Design Strategy (Discharged under permission 2023/93176)
- 12. Scheme detailing Foul, Surface Water and Land Drainage(Discharged under permission 2023/93176)
- 14. Temporary Surface Water Drainage (Discharged under permission 2023/93176)
- 15. Turning Area and Swept Path Analysis Details (Discharged under permission 2023/93176)
- 18. Noise Assessment (Discharged under permission 2023/93176)
- 19. Lighting Scheme (Discharged under permission 2023/93176)
- 21. Landscaping and Tree/Shrub Planting Scheme (Discharged under permission 2023/93176)

1. Representations

No representations were received following the statutory publicity.

2. Negotiations

No amendments were sought or received during the course of the application.

3. Conclusion

This proposal is a Section 73 application to vary condition 2 (plans and specifications). In determining a S73, the Local Planning Authority must only consider the 'disputed' conditions that are the subject of the application – it is not a complete re-consideration of the application. Therefore, it is a consideration of Condition 2 only.

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 the relevant policies in the development plan and other material considerations. The proposal would remain in accordance with the development plan and there are no material

considerations to indicate otherwise. The development would therefore constitute sustainable development and it is recommended for approval.

Recommendation: Approve

Decision Authorisation: Delegated Powers

Application Number: 2025/93312

Officer Recommendation: Approve

Conditions and Reasons:

1. 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 Policies LP1, LP2, LP21, LP22, LP24, LP28, LP30, LP33, LP52 and LP53 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

2. The external walls of the building hereby approved shall be constructed of corrugated steel cladding and retained as such.

Reason: In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

3. The development shall not be brought into use until all areas indicated to be used for paving on the submitted site plan have been marked out, and laid out with a hardened and drained surface in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or any successor guidance. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) these areas shall be so retained, free of obstructions and available for the use(s) specified on the site plan (ref. 33NL04).

Reason: In the interests of satisfactory and sustainable drainage and to comply with Policy LP27 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

4. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved under planning application reference no. 2023/93176, further groundworks shall not commence until a Remediation Strategy 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.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

5. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 5, in the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report is identified or encountered on site, all groundworks 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 shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved remediation strategy.

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. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report 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 Validation Report in respect of those remediation measures has been approved in writing by the Local Planning Authority. Where validation has been submitted and approved in stages for different areas of the whole site, a Final Validation Summary Report shall be submitted to and 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.

7. No removal of trees, shrubs or scrub shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

Reason: To prevent significant ecological harm in respect of direct impacts to birds, their eggs, nests and young and to accord with Policy LP30 of the Kirklees Local Plan and the requirements of Chapter 15 of the National Planning Policy Framework.

8. Prior to the development being brought into operation (occupation for residential, business function for non-residential), details of the operation, maintenance and management of the surface water drainage infrastructure shall be submitted to and approved in writing with the Local Planning Authority. Details shall include adoption proposals of any adoptable structures, as necessary. The development shall thereafter be operated, managed and maintained at all times for the lifetime of the development, or up to the point of adoption, in accordance with the approved details.

Reason: To deliver effective sustainable drainage systems that will be operated, maintained and managed for the lifetime of the development that it will serve, in accordance with Policy LP28 of the Kirklees Local Plan as well as Chapter 14 of the National Planning Policy Framework.

9. The development hereby approved shall be used for ancillary warehousing for the existing commercial premises only and shall not be sold or rented out separately.

Reason: In the interests of highway safety and to accord with Kirklees Local Plan Policy LP21 and Chapter 9 of the National Planning Policy Framework.

10. Before the electrical system is installed a scheme detailing the dedicated facilities that will be provided for charging electric vehicles and other ultra-low emission vehicles shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall meet at least the following minimum standard for numbers and power output: • One Standard Electric Vehicle Charging Point for every 10 unallocated commercial parking spaces Buildings and parking spaces that are to be provided with charging points shall not be brought into use until the charging points are installed and operational. Charging points installed shall be retained thereafter.

Reason: In the interest of supporting and encouraging low emission vehicles, in the interest of air quality enhancement, to comply with the aims and

objectives of Policies LP24 and LP51 of the Kirklees Local Plan and Chapters 2, 9 and 15 of the National Planning Policy Framework.

11. Details of any additional tree works required during the construction process, that is not identified within the submitted information, shall be submitted to and approved in writing by the Local Planning Authority prior to the work being carried out. The works shall thereafter be carried out in complete accordance with the approved details.

Reason: To protect trees in the interests of visual amenity and to accord with the requirements of Policies LP24 and LP33 of the Local Plan and Chapter 15 of the National Planning Policy Framework.

12. No activities shall be carried out on the premises, including deliveries to or dispatches from the premises, outside the hours of 08.00 and 18:00 Monday to Friday and 08:00 to 13.00 Saturdays. No activities shall take place on Sundays or Bank Holidays.

Reason: In the interests of residential amenity in relation to noise and disturbance and in accordance with Kirklees Local Plan Policies LP24 and LP52 and Chapters 12 and 15 of the National Planning Policy Framework.

Plans and specifications schedule:

Plan Type	Reference	Revision	Date Received
Plans and details pursuant to 2020/92385			
Location Plan	0001	-	27/07/2020
Existing Impermeable Area	E20/7766/18/01	-	29/09/2020
Proposed Impermeable Area	E20/7766/18/02	-	29/09/2020
Proposed Vehicle Tracking Inbound	0008	P1	08/12/2020
Proposed Vehicle Tracking Inbound	0007	P1	08/12/2020
Drainage Calculations	E20/7766/A	-	30/11/2020
Phase I Desk Study (appendix 2)	C864/20/E/1335	-	31/07/2020
Phase I Environmental Desk Study (part 1)	C864/20/E/1335	-	31/07/2020
Transport Statement	-	-	31/07/2020
Bat Survey	-	-	31/07/2020

Plans and details pursuant to 2023/93176			
Preliminary Drainage Feasibility' document	E20/7766/01	D	16/10/2023
Temporary Works Plan	E20/7766/029	-	16/10/2023
Noise Impact Assessment	NIA-11087-23-11320-v1	1	16/10/2023
External Lighting – Option 1	LS4063250_1	-	07/12/2023
Landscape Masterplan	1001	-	16/10/2023
Tree Survey	230808	-	16/10/2023
Arboricultural Method Statement	230808 MS	-	16/10/2023
Ecological Design Strategy	ER-7037-01	-	16/10/2023
Japanese Knotweed Survey	-	-	06/06/2025
Proposed Site Plan	1003	P4	15/05/2024
Letter by Haigh Huddleston	E20/7766/MD/003	-	07/12/2023
Letter by Haigh Huddleston	E20/7766/JF/002	-	07/12/2023
Plans and details pursuant to 2025/93312			
Existing Site Block Plan	P-04	-	01/12/2025
Proposed Site Block Plan	P-05	-	01/12/2025
Proposed Floor Plan	P-10	-	01/12/2025
Proposed Elevations	P-11	-	01/12/2025

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. In this case, the design of the original scheme has been found acceptable. No further amendments or details were sought thereafter.

Report Dated: 22/01/2026