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:	2025/70/93378/W
Site Address:	site of, Former Spotted Cow Pub, New Hey Road, Oakes, Huddersfield, HD3 4BU
Description:	Variation of conditions 3 (CMP) , 21 (retaining walls), 23 (surface water), 28 (non-native species) of previous permission 2021/94029 for demolition of existing structures and erection of foodstore (Class E) with associated access, parking, servicing areas and landscaping
Recommending Officer:	Victor Grayson

DECISION – Section 73 Variation of Condition – 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.

Nick Hirst

AUTHORISED OFFICER

Date: 12-Jun-2026

Officer Report

Application: 2025/70/93378/W

Site: site of, Former Spotted Cow Pub, New Hey Road, Oakes, Huddersfield, HD3 4BU

Proposal: Variation of conditions 3 (CMP), 21 (retaining walls), 23 (surface water), 28 (non-native species) of previous permission 2021/94029 for demolition of existing structures and erection of foodstore (Class E) with associated access, parking, servicing areas and landscaping

Site Description

The application site is located on the north side of New Hey Road (the A640) in Salendine Nook. The public house (the Spotted Cow) that once stood on the site has been demolished, and the cleared site is currently hoarded. Residential properties abut the site to the north, east and west. Public footpath HUD/367/10 runs along part of the application site's eastern boundary.

Description of Proposal

Under this Section 73 application, the applicant wishes to amend the wording of condition 21 of the previous permission (2021/94029). The original wording, as approved, is:

> *21. Prior to commencement of the development, as defined under Section 56 of the Town and Country Planning Act 1990, a scheme detailing all new retaining walls as well as any modifications to the site's existing retaining wall supporting the A640 New Hey Road and/or PROW 367 shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include locational and cross-sectional information together with details of the proposed design and construction of the retaining walls. The approved scheme shall be implemented and completed prior to the car park being brought into use and prior to superstructure works being commenced on any part of the food store building. The new retaining walls and any modified retaining walls shall be appropriately maintained throughout the lifespan of the development.*
> ***Reason**: To ensure that any new retaining structures do not compromise the stability of the highway in accordance with the requirements of Policy LP21 of the Kirklees Local Plan. This pre-commencement condition is necessary to ensure that load-bearing structures are designed and agreed to a satisfactory standard prior to the development being open to public access.*

The amendments sought are:

- Remove the pre-commencement restriction on works not involving new retaining walls or affecting existing retaining walls.
- Require the submission and approval of details of works involving new retaining walls and any modifications to the site's existing retaining walls supporting public footpath HUD/367/10 prior to the construction of any new retaining walls or any works which may impact directly or indirectly on existing retaining walls.
- Delete the reference to New Hey Road (the A640).

The applicant also wishes to amend the wording of conditions 3, 23 and 28 to reflect the fact that details have been approved pursuant to those conditions under Discharge of Conditions application 2024/92576.

> *3. No development shall take place until a Construction Management Plan (CMP) has been submitted to, and approved in writing by, the Local Planning Authority. The Construction Management Plan shall provide details of:*
>
> *• timetable of all works;*
> *• the construction access(es) and confirmation that adequate visibility splays shall be provided prior to the commencement of development including groundworks;*
> *• pre-development road condition survey of New Hey Road;*
> *• vehicle sizes and routes, times of vehicle movements, identify the location of any HGV waiting areas and include details of the management of said areas; • the parking of vehicles of site operatives and visitors;*
> *• signage;*
> *• loading and unloading of plant and materials;*
> *• storage of plant and materials used in constructing the development;*
> *• the erection and maintenance of security hoarding including decorative displays and facilities for public viewing;*
> *• measures to be taken to minimise the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site, including the provision of adequate wheel washing facilities within the site;*
> *• measures to control and monitor the emission of dust and dirt during construction (in accordance with the requirements of condition 4);*
> *• a Site Waste Management Plan, detailing recycling/disposing of waste resulting from demolition and construction works;*
> *• mitigation of noise and vibration arising from all construction related activities to (these details should also include suitable restrictions on the hours of working on the site including times of deliveries);*
> *• artificial lighting used in connection with all construction related activities and security of the construction site;*
> *• site manager and resident liaison officer contact details (including their remit and responsibilities); and*
> *• details of engagement with local residents and occupants or their representatives.*

The development shall be carried out strictly in accordance with the approved CMP and no change there from shall take place without the prior written consent of the Local Planning Authority. Upon completion of the development, post-development road condition surveys and a schedule and timetable of remedial works shall be submitted to and approved in writing by the Local Planning Authority, and the approved remedial works shall be carried out following the completion of all construction works related to the development. Reason: In the interests of amenity, to ensure the highway is not obstructed and in the interests of highway safety in accordance with Policies LP21, LP24 and LP52 of the Kirklees Local Plan. This pre-commencement condition is necessary to ensure measures to avoid obstruction to the wider highway network, to avoid increased risks to highway safety, and to prevent or minimise amenity impacts are devised and agreed at an appropriate stage of the development process.

23. No development shall take place, as defined under Section 56 of the Town and Country Planning Act 1990, until a scheme detailing surface water attenuation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include plans and cross-sections of the attenuation, full details of flow control devices, and a detailed maintenance and management regime for the storage facility including the flow restriction as well as a details of means of safe access to and into the system where required. There shall be no piped discharge of surface water from the development and no part of the development shall be brought into use until the flow restriction and attenuation works comprising the approved scheme have been completed. The approved maintenance and management scheme shall be implemented thereafter.
***Reason**: In the interests of satisfactory and sustainable drainage to accord with Policy LP28 of the Kirklees Local Plan and the NPPF (Para 167). This pre-commencement condition is necessary to ensure appropriate measures are designed and agreed prior to any potentially damaging flooding occurring that could harm the existing dwellinghouses.*

28. No development shall take place until details of a scheme to eradicate invasive non native species within the site has been submitted to and approved in writing by the Local Planning Authority. All works which form part of the approved scheme shall be completed prior to the development first being occupied.
***Reason**: To ensure these invasive species are appropriately dealt with, in the interests of the biodiversity of the site and in accordance with the NPPF Chapter 15 and Circular 06/2005 – Biodiversity and Geological Conservation. This is a pre-commencement condition to secure the appropriate measures to eradicate invasive plant species, prior to construction.*

The applicant seeks for these three conditions to become compliance conditions, with direct reference to the details approved pursuant to DOC 2024/92576.

History of negotiations/amendments received

Advice related to condition 21 was provided during the life of Discharge of Condition application 2024/92576.

Relevant Planning History

2021/94029 – Permission granted 22/06/2023 for demolition of existing structures and erection of a foodstore (class E) with associated access, parking, servicing areas and landscaping.

2024/92576 – Split decision issued 04/07/2025. Approval of details issued pursuant to conditions 3 (CMP), 23 (surface water) and 28 (non-native species) of previous permission 2021/94029. Decision could not be issued pursuant to condition 21 (retaining walls).

Representations

The application has been advertised via a site notice posted on 24/12/2025 and a press notice published on 16/01/2026. This is in line with the council's adopted Statement of Community Involvement. The end date for publicity was 06/02/2026.

Ward Members for Lindley ward were also notified of the application on 19/12/2025.

No representations were received in response to the council's consultation.

Consultation Responses

KC Highways Structures: No objection to amendment to condition 21.

Planning Policy and Guidance

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 27/02/2019).

Relevant planning policy and guidance is referred to in the committee report (dated 02/03/2023) for application 2021/94029. That policy and guidance landscape remains largely unchanged since that committee report was published, however the following is noted:

- Further versions of the National Planning Policy Framework have been published since application 2021/94029 was determined (the most recent having been published on 12/12/2024 and amended on 07/02/2025). A consultation draft of a revised National Planning Policy Framework was published on 16/12/2025, however that document is at an early stage and is subject to change. Accordingly, for the purposes of this application, no weight is given to the current consultation document.
- Biodiversity Net Gain has become mandatory under the Environment Act 2021, however application 2021/92086 was determined prior to BNG becoming mandatory and therefore this section 73 submission is exempt.
- The council has also published documents including the Affordable Housing and Housing Mix SPD, the Kirklees Interim Housing Position Statement to Boost Supply and the Social Value Policy), however these are not considered relevant to the matters to be considered under this application.

It remains the case that there is no draft or adopted neighbourhood plan which carries material weight in the decision-making process for this application.

Assessment

Scope of this application

Section 73 of the Town and Country Planning Act 1990 concerns the "Determination of applications to develop land without compliance with conditions previously attached", colloquially known as "varying" or "amending" conditions. Section 73 applications must also involve consideration of the conditions subject to which planning permission should be granted. Where an application under Section 73 is granted, the effect is the issue of a fresh grant of permission and the decision notice should list all conditions pertaining to it. The application cannot be used to vary the time limit for implementation.

It is important to note that when assessing Section 73 applications the previously-granted planning permission is a significant material consideration, which impacts heavily on the assessment of the proposal. If the original application has been implemented, or if the permission has not yet expired, the applicant may go ahead and complete the original approved scheme if they wish.

In this case, the applicant could develop the site in accordance with the previous permission, and this fallback is a material consideration to which significant weight must be given.

Alterations to planning policy and other material considerations that may have emerged since the original grant of planning permission are relevant and need to be considered. However, these must be considered in light of the matters

discussed in the above paragraphs and the applicant's ability to complete the previously-approved development.

Descriptions of development may not be changed under Section 73 applications.

Retaining walls and highway structures

Condition 21 of permission 2021/94029 states:

> *21. Prior to commencement of the development, as defined under Section 56 of the Town and Country Planning Act 1990, a scheme detailing all new retaining walls as well as any modifications to the site's existing retaining wall supporting the A640 New Hey Road and/or PROW 367 shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include locational and cross-sectional information together with details of the proposed design and construction of the retaining walls. The approved scheme shall be implemented and completed prior to the car park being brought into use and prior to superstructure works being commenced on any part of the food store building. The new retaining walls and any modified retaining walls shall be appropriately maintained throughout the lifespan of the development.*
> ***Reason:** To ensure that any new retaining structures do not compromise the stability of the highway in accordance with the requirements of Policy LP21 of the Kirklees Local Plan.*
> *This pre-commencement condition is necessary to ensure that load-bearing structures are designed and agreed to a satisfactory standard prior to the development being open to public access.*

The applicant has proposed the following revised wording for condition 21:

> *21. Prior to the construction of any new retaining walls or any works which may impact directly or indirectly on existing retaining walls, a scheme detailing all new retaining walls as well as any modifications to the site's existing retaining walls supporting PROW 367 shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include locational and cross-sectional information together with details of the proposed design and construction of the retaining walls. The approved scheme shall be implemented and completed prior to the car park being brought into use and prior to superstructure works being commenced on any part of the food store building. The new retaining walls and any modified retaining walls shall be appropriately maintained throughout the lifespan of the development.*

Under Discharge of Conditions application 2024/92576, KC Highways Structures advised that – in relation to public footpath HUD/367/10 along the east side of the site – condition 21 could not be discharged until the technical approval process for the design of the proposed retaining walls (via the submission of AIPs) had been concluded. At the time of writing, this has not

been concluded, and therefore the condition as currently worded limits the commencement of development.

To avoid delay to any and all work progressing at the site (as a result of time being needed to resolve technical approval matters related to retaining walls affecting public footpath HUD/367/10), the applicant has applied to remove condition 21's pre-commencement restriction on works not involving new retaining walls or affecting existing retaining walls. The applicant also proposes wording that means condition 21 would require the submission and approval of details of works involving new retaining walls and any modifications to the site's existing retaining walls supporting public footpath HUD/367/10 prior to the construction of any new retaining walls or any works which may impact directly or indirectly on existing retaining walls. The applicant's covering letter of 04/12/2025 states:

> *Lidl intends to undertake a small package of works with which to implement planning permission ref. 2021/62/94029/W prior to it lapsing on 22 June 2026. These works will neither directly or indirectly affect any existing retaining structures on site.*

The proposed amendments to condition 21 are considered reasonable. In planning terms there is no need for the council to restrict all works at the site from progressing while technical approval matters related to retaining walls affecting public footpath HUD/367/10 are being resolved with the council's Highways Structures team. Much of the approved development can be progressed without those technical approval matters having been resolved beforehand.

With condition 21 reworded, the applicant would still be incentivised to resolve technical approval matters promptly, as they are related to the level changes and retaining wall proposals (along the site's eastern boundary) which are needed to enable the supermarket's car parking spaces to be provided (which, in turn, are needed to enable the supermarket to trade and function). It is also noted that the amended condition 21 would retain the following wording:

> *The approved scheme shall be implemented and completed prior to the car park being brought into use and prior to superstructure works being commenced on any part of the food store building.*

The applicant also proposes the deletion of the reference to the A640 New Hey Road from the wording of condition 21. This is considered acceptable, as – under Discharge of Conditions application 2024/92576 – it was established that no non-private highway retaining walls exist, are proposed or are required along the site's frontage to New Hey Road.

Section 106 Deed of Variation

The relevant Section 106 agreement (dated 21/06/2023, associated with permission 2021/94029) did not include wording that allows subsequent

approvals to be linked to the original agreement's provisions, therefore a Deed of Variation (in association with this current Section 73 application) is necessary.

The Deed of Variation only needs to link the approval of this current Section 73 application to the provisions of the original Section 106 agreement. No variations to the obligations within that original agreement are necessary.

The necessary Deed of Variation was completed on 03/06/2026. The agreement has been visible online from 05/06/2026, in compliance with Article 40(3)(b) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. No representations specific to the Deed of Variation have been received.

Conditions

The applicant seeks to amend conditions 3 (construction management), 21 (retaining walls), 23 (surface water) and 28 (non-native species) of the previous permission 2021/94029.

Section 73 of the Town and Country Planning Act 1990 allows the Local Planning Authority to review the previously-imposed conditions (attached to the previous planning permission 2021/94029), and to update, revise, add to or delete redundant conditions as part of the assessment of the current application. Those conditions would normally be re-imposed in any subsequent approval of a Section 73 application, as the effect of the Section 73 approval is the issue of a fresh grant of permission.

28 conditions were previously attached to permission 2021/94029. As well as amending the wording of condition 21 (as discussed above), the applicant wishes to amend the wording of conditions 3, 23 and 28 to reflect the fact that details have been approved pursuant to those conditions under Discharge of Conditions application 2024/92576. These three conditions would become compliance conditions.

It is recommended that conditions 3, 21, 23 and 28 be reworded, albeit not using all the wording suggested by the applicant in the covering letter dated 04/12/2025.

It is also recommended that other conditions be amended, while one may be deleted entirely.

Of note, the recommended changes to the conditions include:

- Condition 1 (timeframe)

Date added to ensure the Section 73 approval does not extend the duration of the permission.

- Condition 3 (construction management)

Reworded to be a compliance condition (except in relation to the further requirements for post-development road condition surveys and remedial works), in light of the approval of details on 04/07/2025 under Discharge of Conditions application 2024/92576. The recommended wording is:

> *3. The development hereby approved shall be carried out strictly in accordance with the construction management details approved by the Local Planning Authority on 04/07/2025 under Discharge of Conditions application 2024/92576 and no change therefrom shall take place without the prior written consent of the Local Planning Authority. Upon completion of the development, post-development road condition surveys and a schedule and timetable of remedial works shall be submitted to and approved in writing by the Local Planning Authority, and the approved remedial works shall be carried out following the completion of all construction works related to the development.*
> ***Reason:** In the interests of amenity, to ensure the highway is not obstructed and in the interests of highway safety in accordance with Policies LP21, LP24 and LP52 of the Kirklees Local Plan.*

- Condition 20 (New Hey Road works)

Superfluous note deleted, as this is not a pre-commencement condition.

- Condition 21 (retaining walls)

Amended as discussed above.

- Condition 23 (surface water)

Reworded to be a compliance condition, in light of the approval of details on 04/07/2025 under Discharge of Conditions application 2024/92576. The recommended wording is:

> *23. There shall be no piped discharge of surface water from the development hereby approved and no part of the development shall be brought into use until the flow restriction and attenuation works approved by the Local Planning Authority on 04/07/2025 under Discharge of Conditions application 2024/92576 have been completed. The approved maintenance and management scheme shall be implemented thereafter.*
> ***Reason:** In the interests of satisfactory and sustainable drainage to accord with Policy LP28 of the Kirklees Local Plan and the National Planning Policy Framework.*

- Condition 27 (bird nesting season)

Deleted, as the condition duplicates protections already set out in the Wildlife and Countryside Act 1981. An informative note is instead recommended.

- Condition 28 (non-native species)

Reworded to be a compliance condition, in light of the approval of details on 04/07/2025 under Discharge of Conditions application 2024/92576. The recommended wording is:

> *28. All works which form part of the details relating to non-native species approved by the Local Planning Authority on 04/07/2025 under Discharge of Conditions application 2024/92576 shall be completed prior to the development first being occupied.*
> ***Reason:*** *To ensure these invasive species are appropriately dealt with, in the interests of the biodiversity of the site and in accordance with Chapter 15 of the National Planning Policy Framework and Circular 06/2005 – Biodiversity and Geological Conservation.*

- Various conditions

Out-of-date NPPF paragraph references and superfluous text deleted.

On 08/06/2026, a draft list of conditions was shared with the applicant. Later that day, the applicant confirmed that they were satisfied with the condition wordings.

Other planning considerations

Regarding Biodiversity Net Gain (BNG), although this current Section 73 application was submitted after mandatory BNG became applicable (under the Environment Act 2021), given the fallback position provided by the previous planning permission (which was not subject to mandatory BNG), it would not be reasonable to impose this requirement.

However, an adequate BNG was secured under that previous permission (with reference to Local Plan policy LP30) in any case. As reported at paragraph 10.64 of the committee report dated 02/03/2023, an off-site contribution is needed to achieve 10% BNG, and the Section 106 agreement dated 21/06/2023 accordingly secured an appropriate contribution. The variations proposed under this current Section 73 application would have no implications in relation to BNG.

The proposed amendments have no significant adverse implications in relation to other planning considerations.

The plans and specifications table below (which, it is recommended, would be included in the council's decision notice for this Section 73 application) is the same table (unchanged) that was used in the decision notice for planning permission 2021/94029. As no drawings or supporting documents (other than a covering letter, which need not be listed) were submitted with the current Section 73 application, no changes to the table are necessary.

Conclusion

This application does not provide an opportunity to revise or reconsider the original grant of planning permission. This application only relates to the consideration of the variation of conditions as indicated, and the other amendments and details proposed and submitted by the applicant.

Subject to conditions, the proposed amendments are considered acceptable.

The proposed amendments would not change the description of development previously approved under permission 2021/94029.

The NPPF 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 proposed amendments would result in a development that would constitute sustainable development. The proposed amendments are therefore recommended for approval.

Recommendation: Approve variations subject to conditions and a Section 106 Deed of Variation

Report Dated: 08/06/2026

Decision Authorisation – Delegated Powers

Application Number – 2025/93378

Officer Recommendation – Approve variations subject to conditions and a Section 106 Deed of Variation

Conditions and Reasons

1. The development hereby approved shall be begun no later than 22/06/2026.
Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby approved 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 Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

3. The development hereby approved shall be carried out strictly in accordance with the construction management details approved by the Local Planning Authority on 04/07/2025 under Discharge of Conditions application 2024/92576 and no change therefrom shall take place without the prior written consent of the Local Planning Authority. Upon completion of the development, post-development road condition surveys and a schedule and timetable of remedial works shall be submitted to and approved in writing by the Local Planning Authority, and the approved remedial works shall be carried out following the completion of all construction works related to the development.
Reason: In the interests of amenity, to ensure the highway is not obstructed and in the interests of highway safety in accordance with Policies LP21, LP24 and LP52 of the Kirklees Local Plan.

4. Upon commencement of the development hereby approved the mitigation measures to control fugitive dust emissions during the construction phase shall be implemented in accordance with those detailed in Appendix F – Dust Assessment Mitigation Fugitive Dust Emission Mitigation Measures on page 33 of the Air Quality Impact Assessment (AQIA) by Miller Goodall, dated 07/09/2021 (ref: 102035V3) and retained for the duration of the construction period.
Reason: To safeguard the amenities of the occupiers of nearby properties in accordance with Chapter 15 of the National Planning Policy Framework and Policy LP51 of the Kirklees Local Plan.

5. The development hereby approved shall operate with no more than 1,100sqm (square metres) of net internal sales floorspace and 2,061sqm of gross internal floorspace. The quantum of net internal sales floorspace

dedicated to comparison goods shall be no more than 220sqm with the remaining net internal sales floorspace dedicated to convenience goods.
Reason: To ensure the retail store operates in the manner originally proposed throughout the lifetime of the permission in accordance with the requirements of Policy LP13 of the Kirklees Local Plan and Chapter 7 of the National Planning Policy Framework.

6. The development hereby approved shall not be sub-divided to form multiple planning units and shall remain as a single planning unit in perpetuity.
Reason: To ensure the retail store operates in the manner originally proposed throughout the lifetime of the permission in accordance with the requirements of Policy LP13 of the Kirklees Local Plan and Chapter 7 of the National Planning Policy Framework.

7. Prior to the installation of the electrical system for the entirety of the store and car park, 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 provide for either of the following:

- One Standard Electric Vehicle Charging Point providing a continuous supply of at least 3.5kW for a minimum of 10% of non-residential parking spaces; or
- Two Rapid Electric Vehicle Charging Points providing a continuous supply of at least 43kW for a minimum of four non-residential parking spaces.

The car park shall not be brought into use until the approved 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 and to comply with the aims and objectives of Policies LP20, LP24 and LP47 of the Kirklees Local Plan and Chapters 2, 9 and 15 of the National Planning Policy Framework.

8. Before the development hereby approved is brought into use, all works which form part of the sound attenuation scheme as specified in the Noise Assessment [authored by Miller Goodall dated 24/09/2021 ref: 102034_V7] shall:

- Be completed; and
- Written evidence to demonstrate that the specified noise levels have been achieved in the form of a further / addendum Noise Assessment shall be submitted to and approved in writing by the Local Planning Authority.

If it cannot be demonstrated that the noise levels specified in the aforementioned Noise Assessment have been achieved at Noise Sensitive Receptors, then a further scheme shall be submitted for the written approval of the Local Planning Authority incorporating further measures to achieve those noise levels. All works comprised within those further measures shall be completed and written evidence to demonstrate that the aforementioned noise levels have been achieved shall be submitted to and approved in writing by the Local Planning Authority before the development is first brought into use.

Reason: To ensure the amenity of future residents in accordance with the principles set out within Policy LP52 of the Kirklees Local Plan.

9. Before the development hereby approved is brought into use, details of all acoustic barriers as recommended in the Noise Assessment [authored by Miller Goodall dated 24/09/2021 ref: 102034_V7] shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the following:

- A plan indicating the location and extent of the barrier;
- The minimum height of the barrier relative to the adjacent ground level; and
- The construction specification of the barrier including the barrier support structure, the barrier material, the minimum barrier thickness, the minimum density of the barrier material and the details where the barrier meets the ground.

The use hereby approved shall not commence until the construction of the acoustic barrier has been completed and the barrier shall be retained thereafter.
Reason: To ensure the amenity of future residents in accordance with the principles set out within Policy LP52 of the Kirklees Local Plan.

10. The combined noise from any fixed mechanical services and external plant and equipment shall be effectively controlled so that the combined rating level of noise from all such equipment does not exceed the background sound level at any time. “Rating level” and “background sound level” are as defined in BS 4142:2014+A1:2019.
Reason: To ensure the proposed development does not cause harmful noise pollution within neighbouring noise sensitive locations, 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.

11. The use hereby approved shall not be open to customers outside the hours of:

- 0800hrs to 2200hrs Monday to Saturday; and
- 1000hrs to 1700hrs on Sunday.

Reason: To ensure that the proposed use does not give rise to the loss of amenity to nearby residential properties, by reason of noise or disturbance at unsociable hours, 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.

12. There shall be no deliveries to or dispatches from the premises outside the hours of:

- 0700hrs to 2300hrs Monday to Saturday; and
- 0900hrs to 1800hrs on Sundays

Reason: To ensure that the proposed uses does not give rise to the loss of amenity to nearby residential properties, by reason of noise or disturbance at unsociable hours, 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.

13. 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 groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within two working days. Groundworks in the affected area shall not recommence until either:

- A Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority; or
- 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 Validation 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 Validation 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 the National Planning Policy Framework.

14. Before the installation of external artificial lighting commences, an External Lighting Design Strategy for Biodiversity and Residential Amenity shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following information:

- The proposed hours of operation of the lighting;
- The location and specification of all of the luminaires;
- The proposed design level of maintained average horizontal illuminance for the areas that needs to be illuminated;
- The predicted vertical illuminance that will be caused by the proposed lighting when measured at windows of any properties in the vicinity;
- The measures that will be taken to minimise or eliminate glare and stray light arising from the use of the lighting that is caused beyond the boundary of the site;
- The methods of switching and controlling the lighting so that it is only operated at the permitted times and at times when it is required;
- Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
- Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit

will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy (once approved), and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

Reason: To safeguard the amenities of the occupiers of nearby properties and promote sustainable development in accordance with Chapters 2 and 15 of the National Planning Policy Framework and Policy LP52 of the Kirklees Local Plan.

15. No baking of goods shall take place on site until details of a kitchen extract system are submitted to and approved in writing by the Local Planning Authority. The details shall provide the following information:

- A risk assessment for odour which considers amount and type of food that will be cooked together with the proposed dispersion of odours and proximity of receptors likely to be affected by any cooking odours;
- Based on the risk assessment, details of the proposed methods of odour control and dispersion of any extracted odours;
- Details showing the proposed location of all the major components of the extract system;
- The noise mitigation measures that will be incorporated in the extract system and details of the likely resulting noise levels that will be caused by operation of the extract system, in particular how loud it will be at nearby noise sensitive locations; and
- The proposed ongoing maintenance schedule that will carried out to ensure that the extract system continues to effectively control odours and not cause excessive noise.

Before baking commences the approved extract system shall be installed, retained and maintained in accordance with the approved details.

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.

16. Before the development hereby approved is brought into use, a travel plan shall be submitted to and approved in writing by the Local Planning Authority. The travel plan shall include measures to improve and encourage the use of sustainable transport. The measures will include/detail as a minimum:

- The provision of current/up-to-date bus/train timetables and information;
- Provision of METRO passes;
- Car sharing facilities;
- The introduction of working practices to reduce travel demand; and
- The provision of on-site cycle facilities and information.

The Travel Plan shall include details of when these measures would be introduced. To support the promotion of the use of sustainable modes the travel plan shall also include/detail:

- How the travel plan will be managed;
- Targets aimed at lowering car use, particularly single occupancy trips, from/to the site;
- A program for monitoring the travel plan and its progress; and
- How the travel plan and its objective of more sustainable travel will be promoted.

The approved travel plan shall thereafter be retained throughout the lifetime of the development.
Reason: In the interests of promoting sustainable travel, and to accord with Policy LP20 of the Kirklees Local Plan.

17. No part of the development shall be brought into use until the car park is laid out surfaced, marked out into bays and drained in accordance with approved plan 'Proposed Surface Treatments Site Plan' (ref: 1814 P404 rev X), 'Detailed Drainage General Arrangement' (ref: 09-122-503 rev C), 'Overland Flow Route' (ref: 09-122-501 rev G) and 'Drainage Details' (ref: 09-122-504 rev A). The car park and its drainage shall be maintained in accordance with approved details.
Reason: In the interests of highway safety, and to accord with Policy LP21 of the Kirklees Local Plan.

18. No part of the development shall be brought into use until vehicular sightlines of 2.4m x 43m on the site frontage have been cleared of all obstructions to visibility exceeding 1m in height and these shall be retained free of any such obstruction in perpetuity.
Reason: In the interests of highway safety, and to accord with Policy LP21 of the Kirklees Local Plan.

19. No part of the development shall be brought into use until the existing accesses from New Hey Road have been permanently closed [and any redundant footway crossings removed and the footway reinstated] with the new access constructed and brought into use in accordance with the approved plans and documentation, specifically 'Proposed Site Plan with Tracking' (ref: 1814 P412 rev V) and the Bryan G Hall 'Transport Assessment – September 2021' (ref: 20-328-001.02).
Reason: In the interests of highway safety, and to accord with Policy LP21 of the Kirklees Local Plan.

20. Prior to the commencement of superstructure works, a detailed scheme for the provision of a right turn lane from New Hey Road into the site with associated signing and white lining and relocation of the existing traffic island shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include construction specifications, white lining, signing, surface finishes together with an independent Safety Audit covering all aspects of the work. Unless otherwise agreed in writing by the Local Planning Authority, all of the agreed works shall be implemented before any part of the development is first brought into use.

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

21. Prior to the construction of any new retaining walls or any works which may impact directly or indirectly on existing retaining walls, a scheme detailing all new retaining walls as well as any modifications to the site's existing retaining walls supporting public footpath HUD/367/10 shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of locations and cross-sectional information together with details of the proposed design and construction of the retaining walls. The approved scheme shall be implemented and completed prior to the car park being brought into use and prior to superstructure works being commenced on any part of the food store building. The new retaining walls and any modified retaining walls shall be appropriately maintained throughout the lifespan of the development.
Reason: To ensure that any new retaining structures do not compromise the stability of the highway in accordance with the requirements of Policy LP21 of the Kirklees Local Plan.

22. The development's approved surface water attenuation, discharge restrictions, outfalls, and the ordinary watercourse diversion shall only be carried out in accordance with the approved Flood Risk Assessment, produced by Beam Consulting, ref: 09-122-DOC-001G dated 08/09/2021 (including its appendices) and shall incorporate all the proposed mitigation measures into the development. The development shall not be brought into use until the entire drainage scheme is fully tested and operational.
Reason: To ensure the provision of adequate and sustainable systems of drainage are employed, in the interests of amenity, environmental well-being and to accord with Policies LP27 and LP28 of the Kirklees Local Plan and the National Planning Policy Framework.

23. There shall be no piped discharge of surface water from the development hereby approved and no part of the development shall be brought into use until the flow restriction and attenuation works approved by the Local Planning Authority on 04/07/2025 under Discharge of Conditions application 2024/92576 have been completed. The approved maintenance and management scheme shall be implemented thereafter.
Reason: In the interests of satisfactory and sustainable drainage to accord with Policy LP28 of the Kirklees Local Plan and the National Planning Policy Framework.

24. Prior to the commencement of superstructure works, details of all external finishing materials to be used in the development hereby approved (including external materials for buildings, boundary treatments and retaining walls, but not ground surfacing materials) shall be submitted to the Local Planning Authority, and samples (including a panel of masonry) shall be left on site for the inspection and approval in writing of the Local Planning Authority. The development shall be carried out in accordance with the approved details and no materials other than those approved in accordance with this condition shall be used in the construction of the development.

Reason: In the interests of visual amenity and to conserve the setting of the adjacent Grade II listed building and to accord with Policies LP24 and LP35 of the Kirklees Local Plan as well as Chapters 12 and 16 of the National Planning Policy Framework.

25. No part of the development hereby approved shall be brought into use until further detailing of the boundary treatments across the entire site is submitted to and approved in writing by the Local Planning Authority. The details shall include the colour and materials composition of the boundary treatments set out in approved plan (Proposed Boundary Treatments Plan – 1814 P403 – rev AG). The boundary treatments shall be installed in accordance with the approved boundary treatment scheme and thereafter retained for the lifetime of the development.
Reason: In the interests of providing defensible private amenity space in accordance with Policy LP24 of the Kirklees Local Plan.

26. Prior to the commencement of superstructure works, an Ecological Design Strategy (EDS) to ensure that 1.75 habitat units are delivered on site (as per the submitted DEFRA Biodiversity Metric v3.0 submitted 26/10/2021) shall be submitted to and approved in writing by the Local Planning Authority. The EDS shall include/detail the following:

- Purpose and conservation objectives for the proposed works;
- Review of site potential and constraints;
- Detailed design(s) and/or working method(s) to achieve stated objectives;
- Extent and location/area of proposed works on appropriate scale maps and plans;
- Details on the establishment of wildflower meadows, trees and shrub planting on the site;
- Type and source of materials to be used where appropriate, e.g. native species of local provenance;
- Type and location of faunal enhancements features, as detailed in the previously submitted ecological assessments (2021 and 2022 versions);
- Timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- Persons responsible for implementing the works;
- Details of initial aftercare and long-term maintenance;
- Details for monitoring and (where the results from monitoring show that conservation aims and objectives of the EDS are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the appropriate biodiversity units; and
- Details for disposal of any wastes arising from works.

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.
Reason: To ensure the development provides sufficient measures to provide a biodiversity enhancement in accordance with Policy LP30 of the Kirklees Local Plan and the National Planning Policy Framework.

27. [deleted]

28. All works which form part of the details relating to the removal of non-native species approved by the Local Planning Authority on 04/07/2025 under Discharge of Conditions application 2024/92576 shall be completed prior to the development first being occupied.
Reason: To ensure these invasive species are appropriately dealt with, in the interests of the biodiversity of the site and in accordance with Chapter 15 of the National Planning Policy Framework and Circular 06/2005 – Biodiversity and Geological Conservation.

NOTE: Please refer to the informative notes attached to permission 2021/94029 dated 22/06/2023.

NOTE: Site clearance and the bird breeding season

In accordance with Wildlife and Countryside Act 1981 it is an offence to intentionally kill, injure, or take any wild bird, or to damage or destroy their active nests. In addition, certain species are included in Schedule 1 of the Act and are protected against disturbance while nesting and when they have dependent young. Therefore, the removal of vegetation should be undertaken outside of the bird breeding season, March to August inclusive. If any clearance work is to be carried out within this period, a nest search by a suitably qualified ecologist should be undertaken immediately preceding the works. If any active nests are present, the ecologist should advise on suitable species-specific works exclusion zones. The exclusion zones should be regularly monitored by the ecologist and remain in place until the young have fledged the nest or the nests are otherwise deserted.

Plans and specifications schedule:

Plan / document	**Reference**	**Version**	**Date received**
Site Location Plan	Ref: 1814 P402	E	26/04/2023
Proposed Site Plan (1,100 sales area)	Ref: 1814 P417	G	26/04/2023
Proposed Site Plan with Tracking	Ref. 1814 P412	V	26/04/2023
Proposed Elevations (Option 2)	Ref: 1814 P201	G	31/01/2023
Proposed Floor Plan	Ref: 1814 P104	C	20/10/2021
Proposed Surface Treatments Site Plan	Ref: 1814 P404	X	26/04/2023
Proposed Boundary Treatments Plan	Ref: 1814 P403	AG	26/04/2023
Proposed Indicative Site Levels Plan	Ref: 1814 P405	Y	26/04/2023
Proposed Retaining Wall Elevations	Ref. 1814 P406	G	20/10/2021

Proposed Lighting Plan	Ref. 1814 P413	T	26/04/2023
Proposed Lighting Layout	DWG 00 and DWG 01 (D422972_R6)	-	20/10/2021
Proposed Boundary Wall Section	Ref. P301	-	31/01/2023
Landscape Details	Ref: R/2175/2	M	26/04/2023
Detailed Drainage General Arrangement	Ref. 09-122-503	C	26/04/2023
Drainage Details	Ref. 09-122-504	A	20/10/2021
Overland Flood Flow Route	Ref: 09-122-501	G	26/04/2023
Culvert Diversion General Arrangement	Ref: 09-122-502	H	26/04/2023
Retaining Wall General Arrangement	Ref: 09-122-410	G	26/04/2023
Retaining Wall Sections	Ref: 09-122-411	D	20/10/2021
Air Quality Assessment by Millar Goodall (ANC) dated 7 September 2021	102035	V3	20/10/2021
Landscape and Ecological Management Plan by FDA Landscapes Ltd	Drawing References Amended April 2023	-	26/04/2023
Updated Planning and Retail Statement by Lichfields for Lidl GB ltd – May 2022	-	-	31/05/2022
Appraisal of Retail and Town Centre Policy Issues by Nexus Planning	-	-	01/08/2022
Design and Access Statement – October 2021- by Lichfields	-	-	20/10/2021
Arboricultural Method Statement to BS 5837:2012 by JCA Arboricultural and Ecological Consultants	16383-B/AJB	Revised 07/02/2022	09/02/2022
Heritage Impact Assessment – October 2021 by Lichfields	19981245	V2	20/10/2021
Heritage Review by Graeme Ives Heritage Planning	-	-	20/10/2021
Update Ecological Assessment by Tyler Grange dated 9th September 2021	12033_R04a_JD_CW	A	26/10/2021
Ecological Assessment Report by Tyler Grange dated 24th September 2020	12033_R02a_JD_HM	-	26/10/2021
Flood Risk Assessment with Detailed Drainage by Beam Consulting dated 8th September 2021	09-11-DOC-001	G	20/10/2021
Appendix A – Climate Change Statement authored by Anna	20236967	V1	26/10/2021

Turton, Lichfields			
Phase 1 Geo-Environmental Desktop Study Report by Beam Consulting dated 29th September 2021	09-11-DOC-002	A	26/10/2021
Geo-Environmental Appraisal by Dunelm Geotechnical & Environmental revised on 28/09/18	M600	02	26/10/2021
Culvert Investigation Letter from RGS Environmental Geotechnical Specialists	J4760/19/E/F	-	20/10/2021
Community Consultation Statement by Lichfields October 2021	20210252	V2	26/10/2021
Rapid Health Impact Assessment by Lichfields October 2021	20002535	V2	26/10/2021
Biodiversity Net Gain Technical Advice Note by Tyler Grange	12033_R03a_JD_CW	A	20/10/2021
Noise Assessment by Miller Goodall Acoustics and Air Quality dated 24th September 2021	102034	V7	20/10/2021
Transport Assessment by Bryan G Hall dated September 2021	20-328-001	.02	20/10/2021
Travel Plan by Bryan G Hall September 2021	20-328-002	.02	20/10/2021

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.