

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:	2026/70/91244/W
Site Address:	Moor End Academy, Dryclough Road, Crosland Moor, Huddersfield, HD4 5JA
Description:	Variation of condition 3 (time limit) on previous permission 2021/92174 for erection of two temporary modular buildings and demolition of existing modular building
Recommending Officer:	Elenya Jackson

DECISION – VARIATION OF CONDITON APPROVED

**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.**

John Holmes

AUTHORISED OFFICER

Date: 15-Jul-2026

Application: 2026/91244

Site: Moor End Academy, Dryclough Road, Crosland Moor, Huddersfield, HD4 5JA

Proposal: Variation of condition 3 (time limit) on previous permission 2021/92174 for erection of two temporary modular buildings and demolition of existing modular building

Site Description

Moor End Academy, Druclough Road, Crosland Moor, Huddersfield, HD4 5JA

The application site relates to Moor End Academy a high school located in Crosland Moor which has previously received planning permission for temporary modular buildings on an area of hardstanding play area located to the north west of the main campus. The site as a whole is large in size and benefits from a cluster of buildings all related to educational facilities at the school. 2 large car parks can be found along the western side of the school, with pedestrian access available to the north, south and west. Vehicular access is taken from Dryclough Road.

Description of Proposal

This application is made under Section 73 of the Town and Country Planning Act 1990 (as amended) to amend/vary condition 3 of planning permission 2021/92174 for use of land for the recycling of construction, demolition and excavation waste.

Condition 3 of permission 3 reads:

3. . The permission hereby granted shall be for a limited period only to expire on 18th August 2026 and on the expiration of this period the buildings shall be permanently removed from the site unless an application is made to the Local Planning Authority to extend this period. Reason: The application relates to buildings constructed from temporary materials and therefore would not be acceptable on a permanent basis in the interests of visual amenity. This is to accord with the aims of Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

The Applicant seeks to vary condition 3 to allow continuation of the use of the buildings for an additional 7 years.

The revised wording of condition 3 would read:

" The permission hereby granted shall be for a limited period only to expire on 18th August 2033 and on the expiration of this period the buildings shall be permanently removed from the site unless an application is made to the Local Planning Authority to extend this period. Reason: The application relates to buildings constructed from temporary materials and therefore would not be

acceptable on a permanent basis in the interests of visual amenity. This is to accord with the aims of Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.."

History of negotiations/amendments received

N/A

Relevant Planning History

2021/92174: Erection of two temporary modular buildings and demolition of existing modular building. Approved 4th August 2021.

2016/92020 – Erection of modular building. Approved 11th August 2016.

2009/93625 – Erection of 2 timber shelters. Approved 5th March 2010.

2003/92421 – Erection of boundary fencing. Approved 16th September 2003.

2000/92024 – Erection of glazed entrance lobby and formation of new store. Permitted development 11th July 2000.

Representations

Final publicity date expired 6th July 2026.

The application has been advertised via neighbour letters as this is consistent with how the application was previously advertised.

Consultation Responses

N/A

PLANNING 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).

Kirklees Local Plan (KLP)

The site is in the Green Belt, is a waste safeguarded site and forms part of a larger mineral extraction area on the KLP (MES14). All mineral has been exhausted on the site and restoration has been commenced in part.

Relevant Local Plan policies include:

- **LP1 – Achieving Sustainable Development**

- **LP2 – Place Shaping**
- **LP3 – Location of New Development**
- **LP21 – Highways and Access**
- **LP22 - Parking**
- **LP24 – Design**
- **LP47 – Healthy, Active and Safe Lifestyles**
- **LP49 – Educational and Health Care Needs**
- **LP50 – Sport and Physical Activity**
- **LP52 – Protection and Improvement of Environmental Quality**
- **LP61 – Urban Greenspace**

Supplementary Local Planning Guidance / Documents:

Nonrelevant.

National Planning Guidance

The National Planning Policy Framework (December 2024) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal.

Relevant chapters are:

- Chapter 2 – Achieving Sustainable Development
- Chapter 4 – Decision-making
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal changes
- Chapter 15 – Conserving and enhancing the natural environment

Other relevant national policy / guidance include:

- National Planning Practice Guidance
- National Planning Policy for Waste

ASSESSMENT

Scope of this application

The proposals seek to extend the temporary permission for an additional 7 years.

Section 73 of the Town and Country Planning Act 1990 concerns the “Determination of applications to develop land without compliance with conditions previously attached”, conversationally known as “varying” or “amending” conditions. Where an application under S73 is granted, the effect is the issue of a fresh grant of permission and the decision notice should list all conditions pertaining to it.

Annex A of the Government guidance on “Flexible options for planning permissions”, details the S73 / S73a variation of condition process. It advises that local planning authorities should, in making their decisions, focus their attention on national and development plan policies, and other material considerations which may have changed significantly since the original grant of permission.

In this case, the most significant changes to policy since the granting of planning permission 2026/91244 is the national policy and guidance set out in the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance.

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 instance the existing buildings should be removed after 18th August 2026. This Section 73 application was received prior to end date of the temporary permission and seeks to essentially extend the time by a further seven years to 18th August 2033.

The assessment below will relate solely to the variations to the wording of condition 3 of planning permission 2021/92174 sought to extend the time.

Principle

Planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise.

The site is designated as Urban Green Space (UGS) in the Kirklees Local Plan. Therefore, Policy LP61 (Urban Green Space) is central to the consideration of the proposed development. This policy states that development proposals which would result in the loss of Urban Green Space will only be permitted where:

'a) An assessment shows the open space is clearly no longer required to meet local needs for open space, sport or recreational facilities and does not make an important contribution in terms of visual amenity, landscape or biodiversity value; or
b) Replacement open space, sport or recreation facilities which are equivalent or better in size and quality are provided elsewhere within an easily accessible location for existing and potential new users; or
c) The proposal is for an alternative open space, sport or recreation use that is needed to help address identified deficiencies and clearly outweighs the loss of the existing green space'.

This local policy basis is consistent with paragraph 98 of the NPPF, which recognises that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of local communities. Furthermore, within paragraph 99 of the NPPF, it is clear that existing open space, sport and recreational facilities should not be built on unless:

'a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity or quality in a suitable location; or
the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use'.

The principle of erecting the modular buildings on site was previously established via the following assessment:

'In light of the above and the from looking at the information submitted to support this application, it is in officer's opinion that as the proposals are to be located in areas of existing hardstanding within the school and thus would not result in the loss of green space that would be used for open space, sport or recreational activities. The proposals are therefore not considered to represent a departure from the development plan. The proposals would also not lead to the loss of any form of playfield as defined in Schedule 4 of The Town and Country Planning (Development Management Procedure) (England) Order 2015, and therefore it is not necessary to consult with Sport England.

The modular buildings are to facilitate the operation of the school and would enhance education provision by supporting the development of the established school use. Therefore, Policy LP49 of the Kirklees Local Plan is relevant, which states that proposals for new or enhanced educational facilities will be permitted where they (a) meet an identified deficiency in provision and (b) the scale, range, quality and accessibility of education facilities are improved. This policy coincides with paragraph 95 criteria (a) of the NPPF which states that Local Planning Authorities should attached great

weight to the need to create, expand or alter schools through the decisions on applications’.

Having taken the above into account, it is considered that the proposal would be a continuation of the existing use at the site and would not be a permanent fixture at this time. Therefore, the proposal is acceptable in principle subject to there being no detrimental impact in relation to other material planning considerations which are assessed in more detail below.

Visual amenity

Section 12 of the NPPF discusses good design. Good design is a key aspect of sustainable development, it creates better places in which to live and work and helps to make development acceptable to communities. Local Plan Policies LP1, LP2 and most importantly LP24, are all also relevant. All the policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development in the local area and is visually attractive.

The proposal variation would not result in materially different or greater impacts compared to that established by 2021/92174 although any impacts (material or otherwise) would last for a longer period (until August 2033).

It is acknowledged that the temporary buildings appearance is not a comparable quality to other adjacent permanent buildings however, given the temporary timeframe, it would not significantly detract from the visual amenity of the area in this instance.

For the above reasons the proposals are considered to accord with Policy LP24 of the Kirklees Local Plan, Chapter 12 of the National Planning Policy Framework, and the National Design Guide.

Residential Amenity

The National Planning Policy Framework states that Local Planning Authorities should seek to achieve a good standard of amenity for all existing and future occupants of land and buildings. This is echoed within Kirklees Local Plan Policy LP24 which states that: -

‘proposals should provide a high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings and the creation of development-free buffer zones between housing and employment uses incorporating means of screening where necessary’.

It is considered that the proposal would be a continuation of existing relationships on site and would therefore have an acceptable impact on the residential amenity of neighbouring residents.

Highway safety

4 - Impact on Highway Safety:

Paragraph 111 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 proposed buildings would retain the existing relationship on site, be ancillary to the main school and would be located to the north of the site away from existing access and parking facilities. Furthermore, it is not anticipated that the proposals would see an increase in staff or pupil numbers or an increase in vehicular movements to and from site. For these reasons the proposal is considered to comply with Local Plan Policies LP21 and LP22, and the guidance contained within the National Planning Policy Framework.

Subject to the re-imposition of the previously imposed conditions, it is considered that this proposal which seeks to extend the time to primarily allow the continuation of existing operations by a further seven years, would not significantly add to significant environmental conditions, nor cause undue harm to material planning considerations such as residential amenity.

Conditions

It is recommended that condition 3 be amended to the following wording, for the reasons set out in this report:

3. " The permission hereby granted shall be for a limited period only to expire on 18th August 2033 and on the expiration of this period the buildings shall be permanently removed from the site unless an application is made to the Local Planning Authority to extend this period. Reason: The application relates to buildings constructed from temporary materials and therefore would not be acceptable on a permanent basis in the interests of visual amenity. This is in accord with the aims of Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework

In regard to the other conditions previously imposed, Sections 73 and 73a of the Town and Country Planning Act 1990 allows the Local Planning Authority to review the previously-imposed conditions (attached to the previous permission 2021/92174), 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 / 73a application, as the effect of the Section 73 / 73a approval is the issue of a fresh grant of permission.

The development has commenced, and therefore the originally imposed condition 1 (time limit for implementation) no longer serves a purpose and is recommended to be deleted.

All the other conditions originally imposed on permission 2021/92174 remain relevant and serve a purpose and therefore are recommended to be reimposed (with reasons updated to reflect current policy).

It is also recommended that the reference/links be included on the decision notice to relevant planning permission 2021/92174

The original permission 2021/92174 was not subject to a section 106 legal agreement and therefore a S106 Deed of Variation is not required as part of this S73 submission.

Representations

None received.

Conclusion

This proposal would extend the period of use of the temporary modular buildings, this would be a relatively short-term impact on the amenity of the area.

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 development would constitute sustainable development and is therefore recommended for approval

Recommendation: Grant variation of condition 3

Report dated: 15/07/2026

Decision Authorisation: Delegated Powers

Recommendation: Approve

Application Number: 2022/90169

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

2. The permission hereby granted shall be for a limited period only to expire on 18th August 2033 and on the expiration of this period the buildings shall be permanently removed from the site unless an application is made to the Local Planning Authority to extend this period.

Reason: The application relates to buildings constructed from temporary materials and therefore would not be acceptable on a permanent basis in the interests of visual amenity. This is to accord with the aims of Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework

Plans and specifications schedule:-

Plan Type submitted as part of application 2021/92174	Reference	Web ID	Date Received
Existing Location & Block Plan	DLMEAELBP	-	26 th May 2021
Proposed Location & Block Plan	DLMEAPLBP	-	26 th May 2021
Block A	DLPEBLOCKA	-	26 th May 2021
Block B	DLPEBLOCKB	-	26 th May 2021
Design & Access Statement – Supporting Information	-	-	26 th May 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

preapplication advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. No amendments have been sought in this instance as the proposals were considered to be acceptable upon submission.