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Our Ref: CRM.3030.020

Planning and Development,
Kirkless Council
PO Box 1720,
Huddersfield, HD1 9EL

Dear Sir / Madam

Section 73 of the Town and Country Planning Act 1990
Application to Vary Planning Permission Ref: 2025/62/91965/E
Site: Land at Gelderd Road, Birstall, Batley, WF17 9LS

Introduction

On behalf of our client, Tesla Motors Ltd, we hereby submit an application under Section 73 of the Town and Country Planning Act 1990 to vary Conditions 2, 9, 15, 17, 18 and remove Condition 16 attached to planning permission ref. 2025/62/91965/E for the installation of electric vehicle charging infrastructure at land off Gelderd Road, Birstall, Batley WF17 9LS.

The following items are submitted:

- Application forms and ownership certificate
- Site Location Plan
- This covering letter
- Updated Site Plan (ref. A111 Rev F)
- Lighting Design (ref. 0075 - CSE - ZZ - XX - DR - E - 6302 - S1 - P02)
- Staircase & Planter Elevations (ref. PL001)
- Staircase Plans & 3D Elevations (ref. PL002)
- Updated Detailed Drainage Strategy and Flood Risk Statement (ref. CRM.3030.020.HY.R.0001.B)
- Updated Soft Landscape Plan (ref. CRM3030020-ENZ-XX-XX-DR-Z-0001 PL02)

Planning Background

Planning permission was granted on 28th January 2026 for the installation of electric vehicle charging points with associated infrastructure, lighting and CCTV, including the erection of an amenity block and access improvements. The approved development is shown on drawing ref. A111 Rev C (Proposed Site Plan).

Since the grant of permission, the scheme has been reviewed by the operator and it has been determined that the amenity block is no longer required to support the operation of the charging hub.

In addition, a minor change is proposed to the proposed staircase. The proposed amendment relates to the reconfiguration of the external staircase and associated landing arrangement. The overall design

intent, material palette, and visual appearance of the approved staircase remain unchanged (details provided below in this letter), with the proposal retaining the previously approved precast concrete stair construction, gabion walling, handrails, lighting, and landscaping features.

The principal change is the orientation of the upper landing and exit point onto the retail park. Following a detailed review of pedestrian movement patterns, the staircase has been amended to provide a more intuitive and logical point of arrival within the retail park. The revised arrangement allows users to enter the site via a dedicated landing area before continuing their onward journey, creating a clearer and more legible pedestrian route that better reflects the natural desire lines and movement of visitors through the site.

The revised arrangement improves pedestrian circulation and accessibility whilst maintaining the original design objectives of the scheme. The amendment does not result in any significant changes to the scale, massing, or visual impact of the staircase structure. The proposed materials, lighting strategy, gabion wall treatment, and landscaping elements remain consistent with the approved design, ensuring the development continues to integrate with the existing site context.

Overall, the proposed amendment represents a minor design refinement that enhances the user experience and accessibility of the staircase whilst preserving the appearance and character of the previously approved scheme. The amendment is considered minor in nature and does not alter the overall planning balance of the development.

The Section 73 application therefore seeks to remove the amenity block from the approved plans, with all other elements of the development remaining unchanged in principle.

Proposed Amendments

The application seeks the following variations, all of which arise directly from the omission of the amenity block:

- **Vary Condition 2** - to allow the development to be carried out in accordance with revised approved plans which omit the amenity block and amend the staircase;
- **Vary Condition 9** - to update the approved drainage strategy to reflect the removal of foul drainage and associated infrastructure previously required for the amenity block.
- **Vary Condition 15** - to update the approved soft landscaping scheme to reflect the amended site layout.
- **Remove Condition 16** - to remove the requirement for the CCTV scheme as it relates to the amenity block, which is no longer proposed.
- **Vary Condition 17** - to amend the approved lighting scheme to reflect the revised layout.
- **Vary Condition 18** - to remove references to the amenity block from the requirement for approval of external materials. Material details for substations, staircase and solar canopy submitted to amend this condition to a compliance condition.

Condition 2

Condition 2 requires the development to be carried out in accordance with the approved plans listed within the Decision Notice:

> *"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".*

The Decision Notice includes a schedule of approved drawings and documents, several of which relate directly to the previously approved amenity block.

This Section 73 application seeks to vary Condition 2 to allow the development to be carried out in accordance with a revised set of plans which omit the amenity block and make associated consequential amendments. The table below identifies the approved plans that are superseded by this submission and the corresponding updated drawings and documents submitted as part of the Section 73 application.

Table 1. Schedule of Superseded and Replacement Plans

Plan Type	Reference	Version	Date Received	Superseded
Location Plan	CRM3030020-ENZ-XX-XX-DR-T-0001	P03	21 July 2025	N/A
Proposed Site Plan	A111	Rev C	21 July 2025	**Superseded by A111 Rev F**
Elevations – Amenity Block	SP-100	-	05 January 2026	**Remove**
Elevations – Canopy 1	SP-101	-	05 January 2026	N/A
Elevations – Canopy 2	SP-102	-	05 January 2026	N/A
Elevations – Canopy 3	SP-103	-	05 January 2026	N/A
Substation Elevations	CRM3030028-ENZXX-XX-DR-T-0011	-	05 January 2026	N/A
Elevations Charger Unit 3	A124	-	21 July 2025	N/A
Elevations Charger Unit 4	A125	-	21 July 2025	N/A
Elevations Staircase	A105	-	21 July 2025	**Superseded by PL001**
Conceptual Illustration	A107	-	21 July 2025	**Remove**

Landscape Scheme	CRM3030020-ENZ-XX-XX-DR-Z-0001	PL01	21 July 2025	**Superseded by CRM3030020-ENZ-XX-XX-DR-Z-0001 PL02**
Proposed Site Lighting	A112	-	21 July 2025	**Superseded by 0075 - CSE - ZZ - XX - DR - E - 6302 - S1 - P02**
Arboricultural Impact Assessment and Arboricultural Method statement	3030.020.ENZ.XX.00.RP.AR.45.102	-	21 July 2025	N/A
Arboricultural Survey Report	3030.020.ENZ.XX.00.RP.AR.45.101	-	21 July 2025	N/A
Ecological Impact Assessment	CRM.3030.020.EC.R.001	-	21 July 2025	N/A
BNG Metric	-	-	21 July 2025	N/A
BK World Design Statement	-	-	21 July 2025	**Remove**
Geoenvironmental Phase One Assessment	CRM.3030.020.GE. R.001.B	-	21 July 2025	N/A
Detailed Drainage Strategy and Flood Risk Statement	CRM.3030.020.HY.R.001.A	-	21 July 2025	**Superseded by CRM.3030.020.HY.R.001.B**
Transport Assessment	CRM.3030.020.TR.RP.001.A	-	21 July 2025	N/A
Design and Access Statement	CRM.3030.020.PL.R.001	-	21 July 2025	N/A
Climate Change Statement	-	-	21 July 2025	N/A

Condition 9

Existing Condition 9 states:

> *"The development shall not be brought into use until the surface and foul water drainage scheme shown on drawing no. CRM.3030.020-ENZ-XX-XX-DR-D-0001 P01, Details Drainage Strategy and Flood Risk Statement, dated July 2025, including SuDS features, pipe layouts, manholes, attenuation areas and outfalls, has been completed which shall be retained thereafter."*

It is proposed to vary Condition 9 to update the approved drainage reference to reflect the removal of the amenity block and the associated foul cesspit proposals. No additional drainage infrastructure is proposed beyond that previously approved, and the revised strategy represents a simplification of the drainage arrangement. The revised drainage strategy ensures continued compliance with Policy LP28 of the Kirklees Local Plan and the requirements of the National Planning Policy Framework.

The condition is therefore proposed to be reworded as follows:

"The development shall not be brought into use until the surface water drainage scheme shown on drawing no. CRM.3030.020-ENZ-XX-XX-DR-D-0001 P02, Detailed Drainage Strategy and Flood Risk Statement dated February 2026 has been completed in full. The approved drainage scheme shall thereafter be retained and maintained for the lifetime of the development."

Condition 15

Existing Condition 15 states:

"The approved landscaping scheme CRM3030020-ENZ-XX-XX-DR-Z-0001 PL01 shall be implemented by the end of the first planting season following the development being brought into use. The approved landscaping scheme shall, from its completion, be retained throughout the lifetime of the development. If, within this period, any tree, shrub or hedge shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives its written consent to any variation. All soft landscaping shall be retained as soft landscaping for the lifetime of the development."

It is proposed to vary Condition 15 to update the approved landscaping reference to reflect the revised site layout following the removal of the amenity block. The overall landscaping strategy, quantum of planting and biodiversity benefits remain consistent with the approved scheme.

The condition is therefore proposed to be reworded as follows:

"The approved landscaping scheme shown on drawing no. CRM3030020-ENZ-XX-XX-DR-Z-0001 PL02 shall be implemented by the end of the first planting season following the development being brought into use. The approved landscaping scheme shall, from its completion, be retained throughout the lifetime of the development. If, within this period, any tree, shrub or hedge shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives its written consent to any variation. All soft landscaping shall be retained as soft landscaping for the lifetime of the development."

Condition 16

Existing Condition 16 states:

"A CCTV scheme as detailed within the Design Statement, authored by BK World, received 14 July 2025, shall be installed and monitored in accordance with the Design Statement. The system shall cover internal and external areas of the premises in accordance with the drawings under the Security section of the report. The system shall be retained, maintained and fully operational for the lifetime of the development."

It is proposed that Condition 16 be removed in its entirety.

Condition 16 was imposed to secure a CCTV scheme associated with the amenity block, including internal areas of the building. As the amenity block is no longer proposed as part of the development, the condition is no longer relevant or necessary.

Condition 17

Existing Condition 17 states:

> *"The lighting scheme as detailed within submitted drawing titled 'Proposed Site Plan Lighting' ref A112, authored by Tesla, shall be installed in accordance with the light stray levels indicated on the plan. The lights shall be downward facing fixed to lighting columns poles that shall not exceed a height of 6.00m."*

It is proposed to vary Condition 17 to update the approved lighting reference to reflect the revised site layout following the removal of the amenity block. The revised lighting scheme continues to control light spill, glare and column heights in accordance with the originally approved principles.

The condition is therefore proposed to be reworded as follows:

> *"The lighting scheme as detailed on drawing no.* 0075 - CSE - ZZ - XX - DR - E - 6302 - S1 - P02 *shall be installed in accordance with the light spill and stray light levels indicated on the approved plan. All lighting shall be downward facing and mounted on lighting columns which shall not exceed a height of 6.0 metres. The lighting scheme shall thereafter be retained and maintained for the lifetime of the development."*

Condition 18

Existing Condition 18 states:

> *"No development shall commence until full details of all external materials, colours and finishes to be used in the construction of the development, including sample colour references and finish where appropriate, have been submitted to and approved in writing by the Local Planning Authority. This shall include details of the amenity block, substations, staircase, and solar canopy. The development shall be carried out in accordance with the approved materials and shall be retained as such thereafter."*

It is proposed to vary Condition 18 to remove references to the amenity block, which is no longer proposed as part of the development, and amend this condition to a compliance condition in light of the material details submitted for the substations, staircase and solar canopy. Details of materials and external appearance are set out below.

Design. Materials and finish details of the staircase are set out below:

- Gabion baskets: Specified to "match existing installations" and would appear to be locally sourced limestone.
- Handrails: The proposed handrails will be finished in Anthracite Grey (RAL 7016), providing a contemporary appearance that complements the wider material palette of the development
- Precast concrete steps: Finish: smooth.

The proposed substation will be manufactured from GRP finished in the colour green. These are of a standard design approved by the District Network Operators (DNOs) and widely used throughout the UK for the distribution of electricity.

The proposed feeder pillar will be manufactured from PPC Galvanised Steel finished in the colour green.

The solar canopy will comprise the following materials and finishes.

Table 1. Solar Canopy Materials and Finishes Information

Component	Material / Finish
Posts & Rafters	Certified e-coating (KTL) with top powder coating; posts additionally hot-dip galvanised to EN-1461
Roof Profiles	Z275 steel, powder coated in RAL colour
Aluminium Rail System	Blueroof aluminium rail system, painted
Drainage Components	In agreed colours
Purlins	Painted (2,872m² of purlin painting noted)
Accessories	Column cover plates, roof side flashing, roof end flashing, top post cover
PV Modules	JA Solar - 1,722 Ã— 1,134mm - 420Wp (176 panels, 73.92kWp total)
Standards	Steel tolerances to EN 22768-1; production approved to EN 1090-1

Justification for Section 73 Application

Section 73 of the 1990 Act allows an applicant to apply for planning permission to develop land without complying with conditions subject to which a previous planning permission was granted. In this case, the Applicant seeks to vary Conditions 2, 9, 15, 17 and 18, and remove Condition 16, with a corresponding correction to the approved plan set.

This is the correct mechanism as the planning authority cannot vary or delete a condition retrospectively, and it provides a clear and lawful route to ensure the permission accurately reflects the development as now proposed.

The removal of the amenity block results in a reduction in built form on the site and does not give rise to any additional environmental, amenity, highway, drainage, landscape or ecological impacts. The revised plans demonstrate that the charging infrastructure, access arrangements and parking layout remain consistent with the approved scheme, and the overall quantum and function of the development are unaffected.

Conclusion

This Section 73 application seeks to make an amendment to the approved scheme to reflect the removal of the amenity block, with consequential updates to a small number of conditions. The proposal represents a simplification of the consented development and does not result in any new or increased impacts.

We respectfully request that the Local Planning Authority supports the proposed variations and grants approval accordingly.

Should you require any further information in support of this application, please do not hesitate to contact me.

Yours sincerely

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Principal Planning Consultant
Enzygo Ltd

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