

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 70

DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS

Reference No: 2018/60/93001/E

Site Address: 230 Cumberworth Lane, Denby Dale, Huddersfield,
HD8 8PR

Description: Outline application for erection of residential
development

Recommending Officer: Victor Grayson

DECISION – Conditional Outline Permission

I hereby authorise the approval of this application for the reasons set out in the agenda of the Heavy Woollen Sub Committee and the committee decision authorisation sheet annexed below in respect of the above matter.

David Wordsworth

AUTHORISED OFFICER

Date: 10-Jan-2019

Decision Authorisation – Committee Decision

Committee: Planning Sub-Committee (Heavy Woollen Area)

Date of Committee: 20/12/2018

Application Number: 2018/93001

Officer Recommendation: Approve subject to conditions.

Committee Decision: Delegate to the Head of Strategic Investment to approve as detailed within the considered report.

Conditions Listed in Committee Report:

1. Standard OL cond (submission of Reserved Matters)
2. Standard OL cond (implementation of Reserved Matters)
3. Standard OL cond (Reserved Matters submission time limit)
4. Standard OL cond (Reserved Matters implementation time limit)
5. Details of access, internal roads, visibility and highways works
6. Travel plan
7. Construction management
8. Ecology, landscaping and ecological design strategy
9. Drainage
10. Affordable Housing (if Reserved Matters is for more than 11 dwellings)
11. Public Open Space
12. Education
13. Transport measures
14. Noise Report
15. Contamination Reports
16. Drainage and Yorkshire Water conditions
17. Construction environmental management plan
18. Electric vehicle charging points

Officer Notes:

The final conditions listed below have been recorded, and are recommended as per the committee report and update, except:

A requirement for a construction environmental management plan is not recommended, as the council's Biodiversity Officer did not, in fact, require the application of such a condition at outline stage. A requirement for a Noise Report is also not recommended, as the council's Environmental Health officers did not, in fact, require the application of such a condition at outline stage.

Condition 5 – Additional condition recommended for the avoidance of doubt as to what is being permitted.

Conditions 9 and 10 – Two conditions (rather than one) proposed in relation to ecology, landscaping and ecological design strategy, for clarity.

Conditions 11 and 12 – Two conditions (rather than one) proposed in relation to drainage, for clarity.

Conditions 17 to 20 – Four conditions (rather than one) relating to site contamination required, in accordance with advice from the Pollution and Noise Control team.

Condition 22 – Additional condition recommended regarding tree protection, due to there being TPO-protected trees close to the site.

Condition 23 – Additional condition recommended regarding coal mining legacy, in accordance with advice from the Coal Authority.

At the Planning Sub-Committee meeting of 20/12/2018 there was discussion amongst Members regarding the possible application of a condition that would restrict development to the footprints of the site's existing building, in light of concerns regarding the development's impacts upon the openness of the green belt. However, a resolution to grant outline planning permission was made without this condition being applied, on the understanding that a Reserved Matters application would be brought back to the Planning Sub-Committee.

A draft list of conditions was sent to the applicant's agent on 20/12/2018. Responding on 02/01/2019, the applicant's agent:

- Queried the need for a Road Safety Audit (RSA). In response, officers noted that the council's Highways Development Management officers did not requested that an RSA be secured by condition at outline stage, therefore this requirement has been deleted from draft condition 6, with it being noted that an RSA may be required at Reserved Matters stage.
- Queried the need for a Travel Plan. In response, officers noted the site size (0.62 hectares), that it is possible that 10 or more units would be proposed at Reserved Matters stage, and that there is a pressing need for modal shift in the south of the borough, given growing congestion problems. It is recommended that draft condition 7, and its requirement for a Travel Plan, be retained.
- Queried the need for a Construction Management Plan. In response, officers noted the problems that have emerged during construction at other sites in recent years, and Members' keenness to see such problems being avoided in the future. It is recommended that draft condition 8, and its requirement for a Construction Management Plan, be retained.
- Asked for the current relevant affordable housing threshold (11 units or more) to be referred to in condition 13. In response, officers advised

that the affordable housing requirement would be based on whatever thresholds apply at the time the number of units is specified at Reserved Matters stage, therefore it would not be appropriate to include a threshold in the wording of condition 13.

- Queried the need for a Noise Report. In response, officers noted that Environmental Health officers had not asked for such a report, therefore this draft condition has been deleted from the list below.
- Queried the need for a tree protection condition. In response, officers noted that builders on site are unlikely to restrict their activities to the extent of development that may be proposed at Reserved Matters stage, and will need to store materials on, and move construction vehicles around, parts of the site that would not be developed. It is essential that trees adjacent to these areas are protected from these activities, and it is recommended that draft condition 22, and its tree protection requirements, be retained.

On 08/01/2019, the applicant's agent provided a further comment that condition 13, as currently worded, would require an affordable housing contribution irrespective of what thresholds applied at the time, and requested assurance that if the number of units proposed/approved at Reserved Matters stage was below the thresholds applicable at the time, no affordable housing would be required. This assurance has been provided (by email dated 09/01/2019) by officers. The applicant's agent agreed that, subject to the above and the amendments suggested by officers, the conditions can be applied as drafted.

Conditions and Reasons:

1. Approval of the details of access, appearance, landscaping, layout and scale of the site (hereinafter called the "Reserved Matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: No details of the matters referred to having been submitted, they are reserved for the subsequent approval in writing of the Local Planning Authority.

This is a pre-commencement condition to ensure that sufficient detail is provided and agreed at an appropriate stage of the development process.

2. Plans and particulars of the Reserved Matters referred to in Condition 1 above, relating to appearance, landscaping, layout and scale shall be submitted in writing to the Local Planning Authority and shall be carried out in full accordance with the approved plans.

Reason: No details of the matters referred to having been submitted, they are reserved for the subsequent approval in writing of the Local Planning Authority.

3. An application for approval of Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: Pursuant to section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

4. The development hereby permitted shall be begun either before the expiration of two years from the final approval of Reserved Matters or in the case of approval of different dates, the final approval of the last such matter to be approved.

Reason: Pursuant to section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

5. 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.

6. Prior to the commencement of development a scheme detailing the layout, construction specification, and programme of works for the access to the development, visibility splays, internal road (to be 5.5m wide), footways (to be 2.0m wide), hard margins (to be 0.6m wide), turning area to accommodate an 11.85m refuse vehicle, and all associated works, have been submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until the approved works have been implemented. Thereafter the approved works shall be retained for the lifetime of the development.

Reason: To ensure the safe movement of vehicles, cyclists and pedestrians in accordance with policies T10, T14, T16 and T17 of the Kirklees Unitary Development Plan and policies PLP20 and PLP21 of the Kirklees Publication Draft Local Plan.

This is a pre-commencement condition to ensure that adequate provision is made for vehicles and pedestrians.

7. The Reserved Matters referred to in Condition 1 above shall include a Travel Plan which shall set out measures to discourage the use of high-emission vehicles and encourage the use of public transport, cycling and walking, as well as the uptake of low emission fuels and technologies.

Reason: To ensure residents of the development are encouraged to use sustainable forms of transport and to mitigate the highway impacts of the development in accordance with policies T10, T14, T16 and T17 of the Kirklees Unitary Development Plan, policies PLP20 and PLP21 of the Kirklees Publication Draft Local Plan, and chapter 9 of the National Planning Policy Framework.

8. Prior to the commencement of development (including demolition, ground works and vegetation clearance) a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority. The CMP shall include a timetable of all works, details of point(s) of access for construction traffic, vehicle sizes and routes, times of vehicle movements, parking for construction workers, signage, temporary drainage arrangements, pre-development road condition surveys, wheel washing facilities within the

site, details of dust suppression measures and details of the disposal of surface water from the development including methods to manage silt. The development shall be carried out strictly in accordance with the CMP so approved throughout the period of construction 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 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 and highway safety, to ensure the risk of flooding does not increase during the construction phase, to limit the siltation of any on-site surface water features, and to accord with policy T10 of the Kirklees Unitary Development Plan and policies PLP21 and PLP52 of the Kirklees Publication Draft Local Plan.

This is a pre-commencement condition to ensure appropriate measures to protect amenity, maintain highways safety and reduce flood risk are agreed at an appropriate stage of the development process.

9. The Reserved Matters referred to in Condition 1 shall include details of all hard and soft landscaping, including details of existing and proposed levels, and regrading. No part of the development shall be occupied until all hard and soft landscaping has been implemented in accordance with the approved details. All approved landscaping shall be retained thereafter in accordance with the approved scheme, long-term maintenance, monitoring and remedial arrangements.

Reason: In the interests of local ecological value and visual amenity, and to accord with policies BE1, BE2 and EP11 of the Kirklees Unitary Development Plan, policies PLP24, PLP30, PLP32 and PLP33 of the Kirklees Publication Draft Local Plan, and chapters 12 and 15 of the National Planning Policy Framework.

10. The Reserved Matters referred to in Condition 1 shall include an Ecological Design Strategy (EDS) based on up-to-date ecological survey information (no older than two appropriate survey seasons prior to submission), which shall include details of mitigation and enhancement measures sufficient to provide a net biodiversity gain, and shall include the following:

- a) Purpose and conservation objectives for the proposed ecological measures.
- b) Review of site potential and constraints.
- c) Detailed design(s) and/or working method(s) to achieve stated objectives.
- d) Extent and location/area of proposed works on appropriate scale maps and plans.
- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- g) Persons responsible for implementing the works.

- h) Details of initial aftercare and long-term maintenance.
- i) Details for monitoring and remedial measures.
- j) 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 avoids or minimises ecological effects where possible and provides an overall net biodiversity gain, in accordance with the requirements of chapter 15 of the National Planning Policy Framework, and policy PLP30 of the Kirklees Publication Draft Local Plan.

11. The Reserved Matters referred to in Condition 1 shall include a scheme detailing foul, surface water and land drainage (including off-site works, agreed outfalls, agreed rates of discharge, balancing works, plans and longitudinal sections, hydraulic calculations, phasing of drainage provision, existing drainage to be maintained/diverted/abandoned, and the design and construction details of all new surface water attenuation culverts and/or tanks located within the proposed adoptable highway footprint of the development's internal road(s)). If discharge to a public sewer is proposed, evidence shall be submitted demonstrating that surface water disposal via infiltration or watercourse is not reasonably practical. Separate systems of drainage for foul and surface water shall be provided. The scheme shall include an agreed maintenance and management plan for the surface water infrastructure, and shall include locations, cross-sections, design and construction details. No part of the development shall be occupied until such approved drainage scheme and maintenance and management plan to serve the development or each agreed phase of the development to which the dwellings relate has been implemented in full. The approved scheme shall thereafter be retained during the life of the development.

Reason: To ensure the effective disposal of surface water from the development (including its internal roads) so as to avoid an increase in flood risk and so as to accord with policy PLP28 of the Kirklees Publication Draft Local Plan and chapter 14 of the National Planning Policy Framework.

12. The Reserved Matters referred to in Condition 1 shall include an assessment of the effects of 1 in 100 year storm events, with an additional allowance for climate change, exceedance events and blockage scenarios on drainage infrastructure and surface water run-off pre and post development between the development and the surrounding area, in both directions. No part of the development shall be occupied until the works comprising the approved scheme have been completed and such approved scheme shall be retained thereafter.

Reason: To ensure the effective disposal of surface water from the development (including its internal roads) so as to avoid an increase in flood risk and so as to accord with policy PLP28 of the Kirklees Publication Draft Local Plan and chapter 14 of the National Planning Policy Framework.

13. No material operation as defined in Section 56(4)(a)-(d) of the Town & Country Planning Act 1990 shall be carried out to commence the development pursuant to this planning permission until arrangements for the provision of affordable housing within the development have been submitted to and

agreed in writing by the Local Planning Authority. The arrangements shall cover the following matters:

- a) The number and type of affordable housing units to be provided;
- b) The layout and disposition of the units' affordable housing to be provided;
- c) The timescale for the implementation and completion of the affordable housing units; and
- d) The mechanism for ensuring that the affordable housing units remain affordable for both the initial and subsequent occupiers.

Reason: To ensure the provision of affordable housing in accordance with the requirements of policy H10 of the Kirklees Unitary Development Plan and the Kirklees Interim Affordable Housing Policy.

This is a pre-commencement condition to ensure that details of affordable housing are provided and agreed at an appropriate stage of the development process.

14. No material operation as defined in section 56(4)(a)-(d) of the Town & Country Planning Act 1990 shall be carried out to commence the development pursuant to this planning permission until arrangements for the provision of public open space to serve the development have been submitted to and approved in writing by the Local Planning Authority. The arrangements shall cover the following matters:

- a) The layout and disposition of the public open space;
- b) The timescale for the implementation and completion of the works to provide the public open space;
- c) The mechanism for ensuring that the public open space will be available for public use in perpetuity; and
- d) Maintenance of the public open space in perpetuity.

Reason: To ensure the provision of open space to serve the development and in accordance with policy H18 of the Kirklees Unitary Development Plan and policy PLP63 of the Kirklees Publication Draft Local Plan.

This is a pre-commencement condition to ensure that details of open space provision are provided and agreed at an appropriate stage of the development process.

15. No material operation as defined in Section 56(4)(a)-(d) of the Town & Country Planning Act 1990 shall be carried out to commence the development pursuant to this planning permission until arrangements for the provision of educational facilities to serve the needs of the development have been submitted to and approved in writing by the Local Planning Authority. The arrangements shall facilitate an increase in the capacity of local schools commensurate with the demands of the development.

Reason: To ensure provision of educational facilities to mitigate the impacts of the development and in accordance with policy PLP49 of the Kirklees Publication Draft Local Plan.

This is a pre-commencement condition to ensure that details of education provision are provided and agreed at an appropriate stage of the development process.

16. No material operation as defined in Section 56(4)(a)-(d) of the Town & Country Planning Act 1990 shall be carried out to commence the development pursuant to this planning permission until arrangements for the provision of measures to address highways impacts and to encourage the use of sustainable modes of transport have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure residents of the development are encouraged to use sustainable forms of transport and to mitigate the highway impacts of the development in accordance with policies T10, T16 and T17 of the Kirklees Unitary Development Plan, policies PLP20 and PLP21 of the Kirklees Publication Draft Local Plan, and chapter 9 of the National Planning Policy Framework.

This is a pre-commencement condition to ensure that details relating to sustainable transport are provided and agreed at an appropriate stage of the development process.

17. Prior to the commencement of development, actual land contamination at the site shall be investigated and a Phase II Intrusive Site Investigation Report shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure unacceptable risks to human health and the environment are identified and removed, and to ensure that the development is safely completed in accordance with the requirements of policy G6 of the Kirklees Unitary Development Plan and policy PLP53 of the Kirklees Publication Draft Local Plan.

This is a pre-commencement condition to ensure that contamination is identified and suitable remediation measures agreed at an appropriate stage of the development process.

18. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to Condition 17 development 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 unacceptable risks to human health and the environment are identified and removed, and to ensure that the development is safely completed in accordance with the requirements of policy G6 of the Kirklees Unitary Development Plan and policy PLP53 of the Kirklees Publication Draft Local Plan.

This is a pre-commencement condition to ensure that contamination is identified and suitable remediation measures agreed at an appropriate stage of the development process.

19. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 18. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered (in either the Phase I Desk Study Report by Demeter Environmental Ltd (14-11-03 rev 0) or the Phase II Intrusive Site Investigation) is identified or encountered on site, all works on site (save for site investigation works) shall cease

immediately and the Local Planning Authority shall be notified in writing within two working days. Unless otherwise agreed in writing with the Local Planning Authority, 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 revised Remediation Strategy.

Reason: To ensure unacceptable risks to human health and the environment are identified and removed, and to ensure that the development is safely completed in accordance with the requirements of policy G6 of the Kirklees Unitary Development Plan and policy PLP53 of the Kirklees Publication Draft Local Plan.

20. 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. Unless otherwise agreed in writing with the Local Planning Authority, no part of the site shall be brought into use until such time as the remediation measures for the whole site have been completed 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.

Reason: To ensure unacceptable risks to human health and the environment are identified and removed, and to ensure that the development is safely completed in accordance with the requirements of policy G6 of the Kirklees Unitary Development Plan and policy PLP53 of the Kirklees Publication Draft Local Plan.

21. Prior to occupation of any part of the development, electric vehicle charging points shall be provided for that part of the development. One charging point shall be provided per unit where dwellings have dedicated parking, and one charging point shall be provided per 10 spaces where parking is unallocated. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16Amps and a maximum demand of 32Amps. The charging points shall be retained thereafter.

Reason: To encourage the use of low carbon forms of transport in accordance with chapter 9 of the National Planning Policy Framework, policy PLP24 of the Publication Draft Local Plan and the West Yorkshire Low Emissions Strategy.

22. Prior to the commencement of development, tree protection measures in accordance with BS5837:2012 shall be implemented and maintained throughout the construction phase in respect of all trees to be retained within and adjacent to the development site.

Reason: To protect trees in the interests of visual amenity and to accord with policy NE9 of the Kirklees Unitary Development Plan, policy PLP33 of the Kirklees Publication Draft Local Plan and chapter 15 of the National Planning Policy Framework.

This is a pre-commencement condition to ensure that existing trees to be retained are provided with adequate protection prior to development commencing.

23. Prior to the commencement of development, shallow mine workings and mine entries at the site shall be investigated and the findings of this investigation and recommendations for mitigation shall be included in the Reserved Matters referred to in Condition 1 above.

Reason: To minimise risk associated with the area's coal mining legacy in accordance with Policy PLP53 of the Kirklees Publication Draft Local Plan. This is a pre-commencement condition to ensure that coal mining legacy risks are properly assessed at an appropriate stage of the development process and taken into account in the design to be brought forward at Reserved Matters stage.

NOTE: All contamination reports shall be prepared in accordance with CLR11, PPS23 and the Council's Advice for Development documents or any subsequent revisions of those documents.

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of 07.30 and 18.30 hours Mondays to Fridays, and 08.00 and 13.00 hours on Saturdays, with no working Sundays or Public Holidays. In some cases, different site specific hours of operation may be appropriate. Under the Control of Pollution Act 1974 (Section 60), Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which work may be carried out.

NOTE: The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer (Kirklees Street Scene: 01484 221000) with regard to obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution.

NOTE: To discuss road adoption arrangements under Section 38 of the Highways Act 1980, please contact the Highway Development, Investment & Regeneration service, Civic Centre 3, Market Street, Huddersfield HD1 2JR (Kirklees Street Care: 0800 7318765 or Highways Section38@kirklees.gov.uk).

NOTE: Attenuation structures with a span 1500mm or greater under the highway are likely to result in a rejection to sign a Section 38 agreement for Kirklees Council to adopt said highway. Space for water outside the highway will need to be considered prior to the submission of a reserved matters application. For further information please contact Farhad Khatibi, Structures, 01484 221000.

NOTE: The LPA has an obligation under House of Commons Written Statement (HCWS161) to ensure the maintenance and management of sustainable drainage systems for the lifetime of the development. In order to enforce this obligation, a Section 106 agreement/undertaking to set up a management company to carry out specific maintenance tasks at appropriate intervals and inspect the integrity of the system, repairing and renewing when appropriate is required until such a time as the surface water infrastructure is adopted by Kirklees Council (Highway Drainage elements) and/or Yorkshire Water (surface water sewerage elements).

NOTE: Details of proposed affordable housing and public open space provision (i.e., the details referred to in Conditions 13 and 14) should be submitted at Reserved Matters stage where the proposed details would have implications for layout.

NOTE: Bat roost features should be sited away from artificial lighting and both bird nest and bat roost features should not be located above windows and doors. It is also advised the removal of vegetation and buildings 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 work which may cause destruction of nests or, disturbance to the resident birds must cease until the young have fledged.

NOTE: Soakaway testing must be carried out prior to the submission of Reserved Matters to inform the proposed surface water management scheme and ensure soakaways can be accommodated in the proposed layout if proven to be suitable.

Plans and specifications **schedule:**

Plan/document type	Reference	Version	Date received
Location plan			13/09/2018
Planning Statement		September 2018	13/09/2018
Updated Ecology Survey to Ecological Appraisal (Quants Environmental, November 2014)	Quants Environmental	29/08/2018	13/09/2018
Phase I Desk Study Report	Demeter Environmental Ltd	14/11/2003 rev O	13/09/2018
Coal Mining Risk Assessment	JNP Group – B20170/CMR	24/12/2014	13/09/2018
Drainage Strategy Report	JNP Group – B20170/DSR 1	24/12/2014	13/09/2018

Transport Statement	Paragon Highways - 1526	August 2018	13/09/2018
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Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and 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 2015, and otherwise actively engaged with the applicant in dealing with the application.

The Council proactively engaged with the applicant in order to ensure planning matters were addressed as far as was necessary at outline application stage.

Report Dated: 09/01/2019