

# **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:** 2018/60/90151/W

**Site Address:** adj, 208, Yew Tree Road, Birchencliffe, Huddersfield,  
HD2 2EQ

**Description:** Outline application for erection of residential  
development

**Recommending Officer:** Adam Walker

#### **DECISION – S106 Outline Permission**

**I hereby authorise the approval of this application for the reasons set out in the agenda of the Huddersfield Sub Committee dated 21/06/18 and the committee decision authorisation sheet annexed below in respect of the above matter.**

David Wordsworth

***AUTHORISED OFFICER***

**Date: 11-Dec-2018**

Decision Authorisation – Committee Decision

**Committee: Huddersfield Sub**

**Date of Committee: 21/6/18**

**Application Number: 2018/90151**

**Officer Recommendation:**

DELEGATE approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions including those contained within this report and to secure a S106 obligation covering the following matter:

1. Contribution towards off-site improvement works at the Halifax Road/East Street (Cavalry Arms) junction.

**Committee Decision:** Approved in accordance with officer recommendation

**Update report following committee:**

Since the committee resolved to approve the application there has been a modification to Policy PLP5 of the emerging Local Plan.

Policy PLP5 of the emerging Local Plan relates to masterplanning sites.  
Masterplanning

seeks to ensure that development is properly integrated with existing settlements and that local infrastructure and facilities for the wider area are expanded and enhanced. The policy sets out the objectives of masterplans and the policy justification sets out circumstances when a masterplan will normally be required. This includes multi-plot developments where there may be multiple landowners and it is important to co-ordinate the delivery of infrastructure and ensuring the place shaping principles and other policy requirements are met as set out in the plan.

There are unresolved objections to this policy, however, following the examination in public, modifications have been made to the policy which seek to address the unresolved objections. One of the amendments deals with piecemeal development. These modifications have been through public consultation. Unresolved objections would normally reduce the weight that can be afforded to an emerging policy but the proposed modifications allow the weight that that can be afforded to policy PLP5 to be increased.

The application and the live outline planning applications on the adjoining sites to the east

and south fall into the bracket of multi-plot developments under different ownership. These three sites form a distinct and self-contained part of the emerging housing allocation, separated from adjacent development land by Yew Tree Road and Burn Road. Together these three sites comprise approximately 12% of the emerging housing allocation.

It has been necessary to reassess planning contributions in light of the modification to PLP5. It has been concluded that the three applications represent a piecemeal approach to development on this part of the allocation and it is in the public interest to calculate contributions based on there being development on the two adjoining development sites. The same approach has been adopted for the other two outline applications.

The number of dwellings that the site could accommodate is unlikely to meet the threshold for an education contribution however when taken with the other two sites it is very likely that the threshold would be met. As such an additional condition is necessary to make provision for an education contribution. The level of contribution would be calculated on the basis of the number of dwellings that comes forward across the three sites, with each site providing a proportionate contribution. The applicant has agreed to the addition of this condition. The chair of the committee has also confirmed his agreement to its inclusion.

Affordable housing and POS are already covered by conditions and the adjacent developments will need to be taken into account when it comes to discharge these conditions.

A masterplanning approach to the design and layout of all three sites is relevant to ensuring the respective developments integrate with the surrounding area. This will need to be realised through the reserved matters.

There is a completed S106 in place for the contribution towards the off-site highway works.

Conditions have been agreed with the applicant.

## **Conditions and Reasons**

1. Approval of the details of the scale, layout, appearance, and the landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development commences.

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

2. Plans and particulars of the reserved matters referred to in Condition 1 above, relating to the scale, layout, appearance and the landscaping of the site, 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 matter referred to having been submitted they are reserved for the subsequent approval in writing of the Local Planning Authority.

3. Application for approval of any reserved matter 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 on 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. Details of 'scale' submitted pursuant to condition 2 shall include details of existing and proposed ground levels and proposed finished floor levels for the development.

**Reason:** In the interests of visual and residential amenity and to accord with Policies BE1 and BE2 of the Kirklees Unitary Development Plan and emerging Policy PLP24 of the Publication Draft Local Plan and guidance in the National Planning Policy Framework.

6. A Phase II Intrusive Site Investigation Report (including ground gas monitoring) shall be submitted to and approved in writing by the Local Planning Authority before development commences.

**Reason:** To identify unacceptable risks to human health and the environment arising from the legacy of coal mining activity and potential contamination. This is to accord with Policy G6 of the Kirklees Unitary Development Plan, PLP53 of the emerging Local Plan and guidance given in the National Planning Policy Framework. This is a pre-commencement condition to ensure that such matters are identified at an appropriate stage.

7. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 6, 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 address unacceptable risks to human health and the environment arising from the legacy of coal mining activity and contamination. This is to accord with Policy G6 of the Kirklees Unitary Development Plan, PLP53 of the emerging Local Plan and guidance given in the National Planning Policy Framework. This is a pre-commencement condition to ensure that such matters are identified at an appropriate stage.

8. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to Condition 7. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered [in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Reports] 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 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

**Reason:** To remove unacceptable risks to human health and the environment and to accord with Policy G6 of the Kirklees Unitary Development Plan, PLP53 of the emerging Local Plan and guidance given in the National Planning Policy Framework.

9. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy, a Validation Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the remediation measures 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 address unacceptable risks to human health and the environment and to accord with policy G6 of the Kirklees Unitary Development Plan, PLP53 of the emerging Local Plan and guidance given in the National Planning Policy Framework.

10. 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 have been submitted to and approved 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;

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 Council's Unitary Development Plan, the Council's Supplementary Planning Document 2 (Affordable Housing), the council's interim draft affordable housing policy (adopted December 2016) and PLP5 (as modified) and PLP11 of the Publication Draft Local Plan (or other such policies as shall prevail when details are submitted to discharge this condition). This condition may require the payment of a financial contribution; the condition is worded as such to prohibit development until arrangements for the provision of affordable housing have been secured. The use of such a condition has been agreed with the applicant, in accordance with Planning Practice Guidance (use of planning conditions).

11. 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 within perpetuity.

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 Council's Unitary Development Plan and PLP5 (as modified) and PLP63 of the Publication Draft Local Plan (or other such policies as shall prevail when details are submitted to discharge this condition). This condition may require the payment of a financial contribution; the condition is worded as such to prohibit development until arrangements for the provision of public open space have been secured. The use of such a condition has been agreed with the applicant, in accordance with Planning Practice Guidance (use of planning conditions).

12. 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.

**Reason:** To facilitate an increase in the capacity of local schools commensurate with the demands of the development and to accord with the Council's policy note on providing for education needs generated by new housing and to accord with PLP5 (as modified) of the Publication Draft Local Plan (or other such policy as shall prevail when details are submitted to

discharge this condition). This condition will require the payment of a financial contribution; the condition is worded as such to prohibit development until arrangements for the provision of education facilities have been secured. The use of such a condition has been agreed with the applicant, in accordance with Planning Practice Guidance (use of planning conditions).

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 measures to promote the use of public transport by occupiers of the development have been submitted to and approved in writing by the Local Planning Authority.

**Reason:** To promote the use of sustainable forms of transport and to accord with Policy PLP20 of the Publication Draft Local Plan and guidance in the National Planning Policy Framework. This condition will require the payment of a financial contribution; the condition is worded as such to prohibit development until arrangements for the provision of measures to promote the use of public transport have been secured. The use of such a condition has been agreed with the applicant, in accordance with Planning Practice Guidance (use of planning conditions).

14. Development shall not commence until a scheme detailing temporary surface water drainage for the construction phase (after soil and vegetation strip) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail:

- phasing of the development and phasing of temporary drainage provision.
- include methods of preventing silt, debris and contaminants entering existing drainage systems and watercourses and how flooding of adjacent land is prevented.

The temporary works shall be implemented in accordance with the approved scheme and phasing. No phase of the development shall be commenced until the temporary works approved for that phase have been completed. The approved temporary drainage scheme shall be retained until the approved permanent surface water drainage system is in place and functioning in accordance with written notification to the Local Planning Authority.

**Reason:** To ensure the provision of adequate and sustainable systems of drainage in the interests of amenity and environmental well-being and to accord with Policy BE1(iv) of the Unitary Development Plan, PLP27 and PLP28 of the emerging Local Plan and guidance in the National Planning Policy Framework. This is a pre-commencement condition to ensure that such matters are identified at an appropriate stage.

15. The site shall be developed with separate systems of drainage for foul and surface water on and off site.

**Reason:** To ensure the provision of adequate and sustainable systems of drainage in the interests of amenity and environmental well-being and to accord with Policy BE1(iv) of the Unitary Development Plan, PLP27 and

PLP28 of the emerging Local Plan and guidance in the National Planning Policy Framework.

16. A scheme detailing separate foul and surface water drainage, (including off site works, outfalls, balancing works, plans and longitudinal sections, hydraulic calculations, existing drainage to be maintained/diverted/abandoned) shall be submitted to and approved in writing by the Local Planning Authority before development commences. None of the dwellings shall be occupied until such approved drainage scheme has been provided on the site to serve the development, or each agreed phasing of the development to which the dwellings relate. The drainage scheme so approved shall thereafter be retained.

**Reason:** To ensure the provision of adequate and sustainable systems of drainage in the interests of amenity and environmental well-being and to accord with Policy BE1(iv) of the Unitary Development Plan, PLP27 and PLP28 of the emerging Local Plan and guidance in the National Planning Policy Framework. This is a pre-commencement condition to ensure that such matters are addressed at an appropriate stage of the development.

17. A scheme restricting the rate of surface water discharge from the site to a maximum of 3 litres per second shall be submitted to and approved in writing by the Local Planning Authority before development commences. The drainage scheme shall be designed to attenuate flows generated by the critical 1 in 100 year storm events, with an appropriate allowance for climate change (30%). The scheme shall include a detailed maintenance and management regime for the storage facility including the flow restriction. 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:** To ensure the provision of adequate and sustainable systems of drainage in the interests of amenity and environmental well-being and to accord with Policy BE1(iv) of the Unitary Development Plan, PLP27 and PLP28 of the emerging Local Plan and guidance in the National Planning Policy Framework.

Note: The maintenance and management arrangements for the surface water drainage infrastructure may require a planning obligation. This is a pre-commencement condition to ensure that such matters are addressed at an appropriate stage of the development.

18. Notwithstanding the submitted details, a detailed design for the construction of the approved point of access on Yew Tree Road that is based on drawing number 1711603 shall be submitted to and approved in writing by the Local Planning Authority before development commences. The access shall be constructed in accordance with the approved details and retained thereafter.

**Reason:** To ensure a suitable access and layout in the interests of highway safety and to accord with Policy T10 of the Kirklees Unitary Development Plan and PLP21 of the Publication Draft Local Plan. This is a pre-commencement



condition to ensure that highway matters are addressed at an appropriate stage.

19. No development shall take place until a scheme detailing the proposed internal adoptable estate roads has been submitted to and approved in writing by the Local

Planning Authority. The scheme shall include the proposed phasing of works, full sections, drainage works, street lighting, signing, surface finishes and the treatment of sight lines, together with an independent safety audit covering all aspects of work. The scheme shall be completed in accordance with the details so approved and retained thereafter.

**Reason:** To ensure a suitable access and layout in the interests of highway safety and to accord with Policy T10 of the Kirklees Unitary Development Plan and PLP21 of the Publication Draft Local Plan. This is a pre-commencement condition to ensure that highway matters are addressed at an appropriate stage.

20. Details of 'layout' submitted pursuant to condition 2 shall include the provision of a 2 metre wide footway to the site frontage.

**Reason:** In the interests of highway safety and to allow for safe pedestrian access to and from the site and to accord with Policy T10 of the Kirklees Unitary Development Plan and PLP21 of the Publication Draft Local Plan.

21. Construction details for the 2 metre wide footway to the site frontage pursuant to condition 20 shall be submitted to and approved in writing by the Local Planning Authority before the footway is installed. The footway shall be provided in accordance with the approved details before any dwelling on the site is first occupied and shall thereafter be retained.

**Reason:** In the interests of highway safety and to allow for safe pedestrian access to and from the site and to accord with Policy T10 of the Kirklees Unitary Development Plan and PLP21 of the Publication Draft Local Plan.

22. The visibility splays as shown on drawing number 1711603 shall be cleared of all obstructions to visibility exceeding 1 metre in height before development commences and shall be retained free of any such obstruction at all times.

**Reason:** To ensure adequate visibility in the interests of highway safety and to accord with Policies T10, BE1 and D2 of the Kirklees Unitary Development Plan and PLP21 of the emerging Local Plan.

23. A construction management plan for the means of access to the site for construction traffic shall be submitted to and approved in writing by the Local Planning Authority before development commences. The schedule shall include the point of access for construction traffic, details of the times of use of the access, the routing of construction traffic to and from the site, construction workers parking facilities and a scheme to demonstrate how the highway will be kept clear of mud/debris. All construction arrangements shall be carried out in accordance with the approved schedule throughout the period of construction.

**Reason:** In the interests of highway safety and amenity and to accord with Policies T10 and BE1 of the Kirklees Unitary Development Plan and PLP21 of the emerging Local Plan.

24. A report specifying the measures to be taken to protect the development from road traffic noise shall be submitted to and approved in writing by the Local Planning Authority before development commences. The report shall:

- (i) Determine the existing noise climate
- (ii) Predict the noise climate in gardens (daytime), bedrooms (night-time) and other habitable rooms of the development
- (iii) Detail the proposed attenuation/design necessary to protect the amenity of the occupants of the new residences (including ventilation if required).

The development shall not be occupied until all works specified in the approved report have been carried out in full and such works shall be thereafter retained.

**Reason:** In the interests of amenity of the occupiers of the development and to accord with the requirements of Policies BE1 and EP4 of the Unitary Development Plan and PLP24 and PLP52 of the emerging Local Plan and guidance in the National Planning Policy Framework.

25. Details of 'layout' and 'landscaping' submitted pursuant to condition 2 shall include an ecological design strategy (EDS) addressing compensation for the loss of the marshy grassland/rush pasture habitats as identified in the Preliminary Ecological Appraisal, as well as general ecological enhancement. The EDS shall include the following:

- a) Purpose and conservation objectives for the proposed works, including but not limited to the creation of a permanent water body or marshy grassland habitat within open space.
- b) Review of site potential and constraints informed by up-to-date (within 12 months of the date of submission) ecological survey and assessment.
- 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.

The EDS shall be implemented in accordance with the approved details and all features shall be retained as such thereafter.

**Reason:** To provide ecological mitigation and enhancement in accordance with Policy PLP 30 of the emerging Local Plan and guidance in the National Planning Policy Framework.

26. Details of a scheme for the provision of electric vehicle recharging points to serve the development shall be submitted to and approved in writing by the Local Planning Authority before any dwelling is first occupied. The recharging points so approved shall be provided before the dwelling to which the recharging point relates is first occupied. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps.

**Reason:** To accord with PLP24 of the emerging Local Plan, guidance in the National Planning Policy Framework and the West Yorkshire Low Emissions Strategy.

**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

08.00 and 13.00hours , 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.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Planning Statement	Prepared by Malcolm Sizer Planning Ltd. January 2018	-	22/1/18
Location Plan & Existing Site Plan	AL 01 Rev A	-	22/1/18
Proposed Access Plan	1711603 Prepared by Via Solutions	-	18/6/18
Highways Technical Note	Prepared by Via Solutions Dated 21st Aug	-	22/1/18

Plan Type	Reference	Version	Date Received
	2017		
Highways Technical Note (2)	Prepared by Via Solutions Dated 7th Sept 2017	-	22/1/18
Drainage Assessment	Prepared by EWE Associates Ltd Draft Rev0 August 2017	-	2/2/18
Preliminary Ecological Appraisal	Prepared by Brooks Ecological Report reference: R-2716-01 February 2017	-	22/1/18
Air Quality Assessment	Prepared by Aecom Project No. 60523069 30/3/17	-	22/1/18
Preliminary Geoenvironmental Investigation	Prepared by Lithos Report no. 2550/1 November 2016	-	22/1/18

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Planning Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. Negotiations were undertaken in relation to the access arrangements.

**Report Dated:** 10/12/18