

**KIRKLEES METROPOLITAN COUNCIL  
INVESTMENT & REGENERATION SERVICE**

**DEVELOPMENT MANAGEMENT**

**Town and Country Planning Act 1990 (as amended)**

**DELEGATED DECISION TO DETERMINE APPLICATIONS FOR  
CONSENT, AGREEMENT OR APPROVAL REQUIRED BY CONDITION**

**Reference No:** 2021/44/91269/E

**Site Address:** 348A, Leeds Road, Birstall, Batley, WF17 0HY

**Description:** Discharge conditions 8, 9, 13 on previous permission 2017/93657 for erection of 5 detached dwellings with garaging

**Recommending Officer:** John Ritchie

**DECISION – DISCHARGE OF CONDITIONS 8, 9 & 13 SPLIT DECISION  
CONDITION 13 DISCHARGED  
CONDITIONS 8 & 9 NOT DISCHARGED**

**I hereby authorise a split decision for this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.**

Paul Dowd

***AUTHORISED OFFICER***

**Date: 05-Aug-2021**

## 2021/91269 OFFICER REPORT

This application relates to planning permission for the erection of five dwellings at 248A Leeds Road, Birstall – ref 2017/93657. The application seeks to discharge conditions as follows:

*8. Development shall not commence until a Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the Local Planning Authority.*

**Reason:** *To address contamination issues to ensure the site is fit to receive new development and in order to establish the exact situation with regards to coal mining legacy and provide necessary mitigation, in accordance with Policy G6 of the Kirklees Unitary Development Plan, Policy PLP53 of the Kirklees Publication Draft Local Plan and Chapter 11 of the National Planning Policy Framework. This is a pre-commencement condition so that all appropriate investigatory works are carried out before development commences on site.*

### Assessment

The submitted details have been reviewed by the Environmental Health Officer (EHO). She considers that clarification is required in a number of areas and the condition cannot be discharged at the present time. The applicant has responded and this is currently being reviewed by the EHO.

The response of the Coal Authority is awaited.

*9. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 8 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 contamination issues to ensure the site is fit to receive new development and in order to establish the exact situation with regards to coal mining legacy and provide necessary mitigation, in accordance with Policy G6 of the Kirklees Unitary Development Plan, Policy PLP53 of the Kirklees Publication Draft Local Plan and Chapter 11 of the National Planning Policy Framework. This is a pre-commencement condition so that all appropriate investigatory works are carried out before development commences on site.*

### Assessment

The applicant's response to request for clarification from the EHO is currently being assessed. The response of the Coal Authority is awaited.

*13. No development shall take place until an Ecological Design Strategy (EDS) has been submitted to and approved in writing by the Local Planning Authority. The EDS shall include details of the following:-*

- a) Purpose and conservation objectives for the proposed ecological works, in relation to site potential and constraints.*
- b) Location (shown on appropriate scale plans) of specific make and model, or design, of bat and/or bird boxes to be installed integral to all new dwellings.*
- c) Details of how the design of boundary treatments will not obstruct the movement of hedgehogs.*
- d) Planting schedule and planting plan showing the inclusion of native species of tree and shrub to be included within the boundary of the application area, and how this achieves the stated purpose.*
- e) Details of initial maintenance.*

*The Ecological Design Strategy shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.*

**Reason:** *To ensure the scheme provides an ecological enhancement in accordance with Policy EP11 of the Kirklees Unitary Development Plan, Policy PLP30 of the Kirklees Publication Draft Local Plan and Chapter 11 of the National Planning Policy Framework. This is a pre-commencement condition so that the site is developed in accordance with the approved mitigation measures.*

## **Assessment**

The submitted details have been assessed by the KC Biodiversity Officer. She considers that although the recommended measures are considered suitable, the final species mix to the planting has not been determined from the submitted information. However, as Condition 14 on the approved application, requiring the submission and approval of a Landscape Management & Ecological Design Strategy (LEMP) before first occupation of the dwellings, is still to be submitted and discharged it is anticipated that this level of information can be provided when the discharge of Condition 14 is sought. Therefore, the Officer supports the discharge of Condition 13, provided all the measures included within the submitted Ecological Design Strategy (CE0954) dated 4<sup>th</sup> March 2021 are implemented into the development.

## **Decision text**

### **Conditions 8 (Phase II Intrusive Site Investigation Report) & 9 (Site Remediation)**

The clarified details received on 3<sup>rd</sup> August 2021 are currently being assessed and a further letter will be sent as soon as possible. At the present time the conditions cannot be discharged.

### **Condition 13 (Ecological Design Strategy)**

You have submitted the following:

- Ecological Design Strategy ref CE0954 dated 4<sup>th</sup> March 2021 by Curtis Ecology.

This provides recommendations for habitat creation and faunal provisions on the site including initial maintenance and monitoring. Although the recommended measures are considered suitable, the final species mix of planting has not been determined from the submitted information. However, as Condition 14 on the approved application is still to be discharged, requiring the submission and agreement of a Landscape and Ecological Management Plan before first occupation of the dwellings, it is anticipated that this level of information can be provided when the discharge of Condition 14 is sought. Therefore, Officers agree to the discharge of Condition 13, provided all of the measures included within the submitted Ecological Design Strategy (CE0954) dated 4<sup>th</sup> March 2021 are implemented into the development.

Report dated 4<sup>th</sup> August 2021