

**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: 2021/44/91775/W

Site Address: land opposite, 62, Ashbrow Road, Sheepridge,
Huddersfield, HD2 1DG

Description: Discharge of conditions 7, 17, 19, 20 of previous
permission 2019/92114 for erection of four dwellings

Recommending Officer: Farzana Tabasum

DECISION – Discharge of Conditions – Split Decision

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

Victor Grayson

AUTHORISED OFFICER

Date: 23-Jul-2021

The application seeks to discharge conditions 7, 17, 19 and 20 of previous permission ref: 2019/92114

The application is accompanied by the following details/plans:

- Site sections drawing S02
- Proposed site plan drawing S01
- A Phase 2 Geo-environmental Report by Rogers Geotechnical Services Ltd dated 5th November 2020 (ref: C1067/20/E/1665)
- A letter detailing the hot-spot testing investigations by Rogers Geotechnical Services Ltd dated 26th April 2021 (ref: C1067/20/E/2370)

ASSESSMENT:

Consultations have been carried out with the Council's Environmental Health and Structures Officers as well as the Coal Authority.

Wording of condition 7:

7. Before development commences, a scheme detailing the location and cross sectional information together with the proposed design and construction details for all temporary/permanent retaining structures, including any proposed modifications to the existing retaining walls supporting the site adjacent to the Ashbrow Road shall be submitted to and approved in writing by the Local Planning Authority. The details shall include a design statement, all necessary ground investigations on which design assumptions are based on, method statements for both temporary and permanent works, removal of any bulk excavations, a full slope stability analysis together with structural calculations and all associated safety measures for the protection of adjacent public highway. All retaining structures shall be designed and completed in full in accordance with the approved details prior to the occupation of the approved dwellings and shall be so retained thereafter.

Reason: *This is a pre-commencement condition to ensure that a scheme is agreed at an appropriate stage of the development process. The details are required in the interest of pedestrian and highway safety and visual amenity and to ensure the proposed works do not compromise the stability of the adjacent highway and to accord with Policies LP21 and LP24 of the Kirklees Local Plan and guidance in the National Planning Policy Framework*

Summary:

On review of the submitted information the Council's Structures Officer advises that:

"The sectional details previously provided do not relate to the section that is of interest to me, i.e. the section of existing highway burr wall abutting Ashbrow Road, which is to be partially demolished to accommodate the construction of driveways to the new properties. They will need to provide fully detailed and

dimensioned sectional details along the back of footway so as to enable me to comment on whether an AIP for the proposed modifications will be required”

Insufficient information is provided to enable the discharge of condition 7.

Wording of condition 17:

17. Prior to the commencement of development:

- The undertaking of an appropriate scheme of intrusive site investigations;*
- The submission of a report of findings arising from the intrusive site investigations;*
- The submission of a scheme of remedial works for approval; and*
- Implementation of those remedial works.*

Shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall then be carried out and completed in accordance with the approved details and prior to the occupation of any of the dwellings written confirmation shall be submitted to the Local Planning Authority, verifying the works have been fully completed in accordance with the approved details.

Reason: *The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 178 and 179 of the National Planning Policy Framework, Policies LP52 and LP53 of the Kirklees Local Plan.*

Summary:

A response is awaited from the Coal Authority. The applicant will be updated and notified in writing as soon as comments are received.

Wording of condition 19:

19. Where further intrusive investigation is recommended in the submitted Phase I Contaminated Land report by LK Group dated July 2019 Ref: LKC 19 1305, groundworks (other than those required for a site investigation report) 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 ensure any unidentified contamination is established and to identify and remove unacceptable risks to human health and the environment in accordance with Policy LP53 of the Kirklees Local Plan as well as chapter 15 of the National Planning Policy Framework. This is a pre-commencement condition to ensure the information is agreed at an appropriate stage of the development process.*

Wording of condition 20:

20. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition no. 19 further groundworks 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 the site is fit to receive new development and to accord in accordance with Policy LP53 of the Kirklees Local Plan as well as chapter 15 of the National Planning Policy Framework. This is a pre-commencement condition to ensure the information is agreed at an appropriate stage of the development process*

Summary:

Environmental Health Officers on review of the submitted information stated:

“The report includes geo-technical information, which is outside the remit of Environmental Health, this consultation response therefore only relates to the land contamination aspects of the report.

The submitted Phase II report (ref: C1067/20/E/1665) has previously been assessed by the service under application no. 2020/93850. In our response dated 14th December 2020, we recommended that we were generally satisfied with the Phase II report. However, we required further information in relation to hotspot testing, no clear methodology has been proposed. Specifically, we indicated that this must include vertical and horizontal concentration profiles and form the basis of a detailed quantitative risk assessment. This was deemed especially necessary as the location of WS4 is situated in the garden area of one of the proposed properties. The letter received as part of the current application is in response to our earlier comments. Seven trial pits (TP-A to TP-G) have been dug around WS4 at either 2m or 4m in distance. Notably, no location plan with the trial pit locations has been provided. Ground conditions were reported as made ground between 0 to 0.6 metres below ground level. Sampling confirmed made ground in all the trial pits and samples were sent for PAH and TPH analysis. The results revealed exceedances in several different PAH and TPHs in all trial pits, confirming the mound at WS4 a hotspot.

The report continues to read that ‘the full extent of the contamination has not been completely delineated at present’. The report then suggests that the evidence strongly indicates that the contamination is isolated to the mound of made ground. It is recommended a visual inspection at the surface to identify the extent of contamination will be undertaken around the mound and then proposals for remediation are made.

As previously indicated, we are generally satisfied with the Phase II report (Ref: C1067/20/E/1665). However, the supplementary field investigation (Ref: C1067/20/E/2370) to determine the extent of TPH and PAH contamination is considered insufficient as there have been several shortcomings identified:

1. No plan showing the sampling locations and any justification of locations laterally and vertically has been provided. This does not appear to be in line with BS 10175 and YALPAG guidance. Additional information is required to support the content submitted.

2. In the Phase 2 report it reads 'it is recommended that further targeted investigation is undertaken within this area in order to establish the exact extent of the contamination.' Yet the supplementary hot-spot report makes several references to the future identification of the extent of contaminated materials. We consider a qualitative examination of the material and extent of contamination at a later stage is inappropriate given the findings presented so far.

The hotspot delineation information must quantitatively confirm the extent of contamination around the location of WS4. In accordance with BS10175, the relative density of sampling in each zone should consider the findings of earlier phases of investigation, including the uncertainty associated with each zone. The information provided fails to confirm the exact lateral and vertical extent of the contamination. We consider the exact extent of contamination around WS4 to still be unproven and the site characterisation remains incomplete. Further information is required.

3. No certificate(s) of laboratory analysis has been provided. This does not appear to be in line with BS 10175 and YALPAG guidance. To confirm the validity of the summary of contaminated areas provided in Table 2 of the report, we require laboratory data to be provided. This is a fundamental requirement of an intrusive investigation report.

4. The provided report has 'DRAFT' indicated on each page. It is unclear whether the information provided is a work in progress. We require further clarification on this point.

The report also details remediation proposals including the removal of the affected made ground to remove the requirement for a VOC barrier. However, if the contamination is widespread then it is proposed that a clean cover system of 500mm inert material underlain by a 100mm granular capillary break layer will be installed. Until further information is received in relation to the above points, it is inappropriate to assess the remediation information provided.

As information remains outstanding, we cannot recommend the discharge of Condition 19 at this time.

Condition 20 – Remediation Strategy: As Condition 19 remains outstanding, no groundworks other than intrusive site investigation work pertinent to Condition 19 should be taking place in the affected area."

Summary:

Insufficient information has been received to enable the discharge of conditions 19 and 20. Further details are required to address all the points raised by Environmental Health Officers in their response dated 9th July 2021, see link below:

https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/filedownload.aspx?application_number=2021/91775&file_reference=883299

Conclusion:

The applicant will be notified in writing as soon as comments are received from the Coal Authority with regards to condition 17. Conditions 7, 19 and 20 are not discharged due to insufficient information being received to address all matters, as set out above.

DECISION TEXT

The application seeks to discharge conditions 7, 17, 19 and 20 of previous permission ref: 2019/92114

The application is accompanied by the following details/plans:

- Site sections drawing S02
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Condition 7

The Council's Structures team has advised the submitted information is insufficient. Full detailed and dimensioned sectional drawings are required to enable Structures team to advise if an AIP (Approval in Principle) is required for the proposals. The applicant should contact Farhad Khatibi Highway Structures Officer on 01484 221000 to discuss their requirements.

Condition 17

The applicant will be updated and notified in due course when comments are received from the Coal Authority.

Conditions 19 and 20

Insufficient information has been received to enable the discharge of conditions 19 and 20. Further details are required to address all the points raised by Environmental Health Officers in their response dated 9th July 2021, see link below:

https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/filedownload.aspx?application_number=2021/91775&file_reference=883299

To conclude, the applicant will be notified in due course on receipt of the Coal Authority's comments in relation to condition 17. Conditions 7, 19 and 20 cannot be discharged due to insufficient information being received for the reasons set out above.

Consequently, to address outstanding matters pursuant to conditions 7, 19 and 20, further information would need to be submitted under a new application for which a fee would be applicable.

Report dated: 23/07/2021