

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:	2021/44/92901/W
Site Address:	Former Midlothian Garage, New Mill Road, Holmfirth, HD9 7LN
Description:	Discharge of conditions 5 (junction works) and 8 (internal estate roads) of previous outline permission 2015/93824 for erection of 56 dwellings and care home with associated car parking
Recommending Officer:	Nick Hirst

DECISION – Discharge of Conditions – Refuse

I hereby authorise the refusal 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: 28/08/2024

Application: 2021/44/92901/W

Site: Former Midlothian Garage, New Mill Road, Holmfirth, HD9 7LN

Proposal: Discharge of conditions 5 (junction works) and 8 (internal estate roads) of previous outline permission 2015/93824 for erection of 56 dwellings and care home with associated car parking

Assessment

Conditions 5 (junction works) and 8 (internal estate roads)

5. No development shall take place until full details of the junctions and associated highway works on New Mill Road have been submitted to and approved in writing by the Local Planning Authority. No building shall be occupied until the works to provide the junctions have been completed in accordance with the approved plans.

Reason: *In the interests of the free and safe use of the highway, and to accord with Policy T10 of the Kirklees Unitary Development Plan.*

8. No development shall take place until a scheme detailing the proposed internal adoptable estate roads have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include 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. Before any building is brought into use the scheme shall be completed in accordance with the scheme shown on approved plans and retained thereafter.

Reason: *In the interests of the free and safe use of the highway, and to accord with Policies T10 and T19 of the Kirklees Unitary Development Plan.*

These conditions were requested by K.C. Highways Development Management who have assessed the information provided in conjunction with the council's Section 38 team. On technical review of the submitted information they advise that it is inadequate to discharge either condition.

The first matter of concern relates to the site's ground conditions and the proposed design's approach to address them. The site has undergone a significant amount of filling previously with various landfill materials having been placed to depths of between 1.6m and 11.3m below ground level. Extensive excavations on the site have taken place in the past and records indicate remnant concrete foundations below the site. Despite this, the applicant proposes to estimate the road construction thickness using California Bearing Ratio (CBR) testing. In the first case such testing would not be acceptable on non-engineered ground and in the second case officers still require to establish, from validation, that no non-engineered ground remains below any part of the new roads. In addition to these comments, it is also noted that the reports interpret contamination testing that recorded locally elevated concentrations of arsenic, lead, copper, zinc and boron that would not be acceptable in any reused site materials.

Therefore, the applicant has failed to demonstrate that deep made ground has been consistently densified and validated as such and that a correct earthworks protocol has been carried out on near-surface materials. The resulting validation should definitively establish that no non-engineered ground remains below any roads at this site.

Further to the above geo-technical issue, various other concerns over the standard of the design have been identified by K.C. Highways Development Management. These are:

- There is a lack of cross-sectional information, particularly relating to highway retaining features;
- The drainage proposals are not satisfactory, including unacceptable gully locations and road levels/contours;
- No street lighting design has been provided;
- The surface finish information is not acceptable, including transition ramp details;
- Road marking proposals at the site access are not in full accordance with TSRGD 2016;
- The treatment of sight lines has not been confirmed (it is noted that a visibility drawing 143 appears to have been submitted to the Section 38 team, which they have confirmed is not acceptable, but this has not been submitted with this Discharge of Conditions application, so there is currently inadequate information for K.C. Highways Development Management to review);
- The swept path analysis demonstrates that the turning head provision is inadequate;
- The Stage 2 RSA responses are not fully accepted, which includes the requirement for tactile paving at the site access that has not been actioned;
- No details are provided of the footway works on New Mill Road, including making good redundant accesses and the new access to the private drive.

Finally, the submission seeks a phased approval, with the plans relating to phase 1 only. The condition is not worded to permit a partial discharge of details and requires a full submission be provided.

For the above reasons, the proposed road design is unacceptable, and its construction would result in material shortcomings. The reason for the conditions is to ensure '*the free and safe use of the highway*'. The proposed details are for a substandard road which would fail to achieve the free and safe use of the highway. Beyond this, the lack of an adequately designed and safe road would prejudice the amenity of future occupiers. Furthermore, the road falls below an adoptable standard. While not in itself a cause for concern, this would limit arrangements for necessary services, such as waste collection and gritting, with no adequate arrangements having been put forward. Residents would be required to bring bins to the adopted highway, which is a long distance for most plots. Furthermore, as no dedicated space has been included for this, the loose collection of a number of bins would lead to visual harm.

Policy LP21 of the Local Plan, which has superseded policy T10 from the Unitary Development Plan, states that '*Proposals shall demonstrate that they can ... be accessed effectively and safely by all users. New development will normally be permitted where safe and suitable access to the site can be achieved for all people*'. For the given reasons, the proposal has failed to demonstrate this.

Accordingly, it is recommended that the discharge of both conditions be refused.

The application has been held by the council for some time, with no formal update provided to the council in an extended period. It is understood that the applicant initially sought to address the identified issues with the council's Section 38 team, as they sought adoption of the road. That team have commented that, since circa 2022, the applicant has gone silent. Therefore, officers consider that it is no longer reasonable to keep this Discharge of Conditions application open.

Notwithstanding the above, in the interest of being flexible and working with the applicant, in case further progress has been made without the council having been notified, it is deemed reasonable to give a 4-week grace period for further details to be provided as part of this submission, after which a fresh Discharge of Conditions application would be required.

Recommendation: Refuse discharge of condition.

Report Dated: 23/08/2024.

Proposed Letter Text

Conditions 5 (junction works) and 8 (internal estate roads)

You have submitted the following information to discharge both conditions 5 and 8:

- DR-C-0130 Rev. P1
- DR-C-0131 Rev. P1
- DR-C-0132 Rev. P1
- DR-C-0133 Rev. P1
- DR-C-0134 Rev. P1
- DR-C-0135 Rev. P1
- DR-C-0136 Rev. P2
- DR-C-0136 Rev. P3
- DR-C-0137 Rev. P1
- DR-C-0138 Rev. P1
- DR-C-0139 Rev. P1
- DR-C-0140 Rev. P1
- DR-C-0141 Rev. P1
- DR-C-0142 Rev. P1
- Stage 1&2 Road Safety Audit

The submitted information is inadequate and fails to achieve the aims and objectives of conditions 5 and 8. This is because:

- The submission fails to adequately address concerns over ground conditions and stability within the site, and the implications this may have for the road.
- The technical design of the road is lacking and would not deliver a safe or effective highway arrangement.
- The proposal seeks a phased approval, however this is not permitted / feasible given the wording of the condition.

Due to the above issues, the proposed road would fail to adequately secure the free and safe use of the highway.

For the avoidance of doubt, neither condition 5 nor 8 are hereby discharged.

If the requested details are provided within four weeks of the date of this letter, they will be accepted as part of this application. Please send the details directly to nick.hirst@kirklees.gov.uk while quoting application reference 2021/92901.

After four weeks, a fresh Discharge of Condition application will be required.