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**WALSINGHAM PLANNING**

SPECIALIST PLANNING & DEVELOPMENT CONSULTANTS

## Statement of Common Ground

Between  
Muller Property Group and Kirklees  
Council

Land Adjacent to 21 Thomas Street, Lindley

AUGUST 2023

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# I INTRODUCTION

I.1 This Statement of Common Ground sets out the agreed position between Muller Property Group (Muller, the Appellant) and Kirklees Council (the LPA).

I.2 The description of the appeal proposal is agreed and is as follows:

*“Outline application for erection of care home (Use Class C2) of up to 60 beds, with associated access”.*

I.3 The outline planning application was received and validated by the LPA on 28<sup>th</sup> June 2022 and was given the reference: 2022/60/92194/W.

I.4 The application comprised the following package of plans and technical reports:

- Application Plans:
  - Site Location Plan (ref. 9-1 Rev A);
  - Illustrative Proposed Site Plan (ref. 9-2 Rev G), which was subsequently superseded by ref. 9-2 Rev H (which amended the proposed siting of the bin store and cycle parking);
  - Illustrative Proposed Ground Floor Plan (ref. 00-1 Rev A);
  - Illustrative Proposed First Floor Plan (ref. 00-2 Rev A);
  - Illustrative Proposed Second Floor Plan (ref. 00-3 Rev A);
  - Illustrative Proposed Roof Plan (ref. 27-1 Rev A); and
  - Proposed Site Access (ref. 300829-002).
- Application Documents:
  - Covering Letter;
  - Arboricultural Report;
  - Design and Access Statement;
  - Care Home Need Assessment;
  - Preliminary Ecological Appraisal;
  - Flood Risk Assessment and Drainage Management Strategy;
  - Geo-Environmental Ground Investigation Report;
  - Planning Statement;

- Transport Assessment;
- Travel Plan; and
- Utilities Study.

- I.5 The Council took nine months to consider the application and make a determination. During this period five members of the public made representations (4 in objection and 1 as a general comment).
- I.6 Consultation responses were also received from various statutory consultees, and all either declined to make comment, or raised no objection subject to the imposition of recommended planning conditions. The only exception to this was one objection that was received from Kirklees Highways Development Management department (in correspondence dated 28<sup>th</sup> November 2022 and 1<sup>st</sup> February 2023).
- I.7 Walsingham Planning responded to the comments from the Highways Officer, through direct emails to the Case Officer (dated 5<sup>th</sup> January 2023 and 3<sup>rd</sup> February 2023). The Appellant also sought advice from Counsel regarding the strength of the Council's highways case, and a written opinion was prepared by Piers Riley-Smith, of Kings Chambers, on 2<sup>nd</sup> March. This advice was forwarded to the Case Officer (Richard Riggs) on 3<sup>rd</sup> March for his reference.
- I.8 The Case Officer did not change his view in light of the additional information submitted, and the application was refused planning permission on 17<sup>th</sup> March, under delegated powers.
- I.9 The application was refused for three reasons, which can be summarised as follows:
1. The proposed development is considered not to be in accordance with the requirements of the Development Plan, and it has been concluded that there are no material considerations which would justify or outweigh the non-compliance with the relevant policies of the Development Plan;
  2. The proposed site access arrangements do not provide a safe means of access to and from the site for all road users, including emergency and servicing/delivery vehicles, as the proposed visibility splays at the Brian Street site entrance would be significantly detrimentally affected by the prevalence of on-street parking. The servicing/delivery arrangements to the north of the site are inadequate given the requirement to cross an existing layby and the full height kerb to access the site. No demonstrably feasible servicing / delivery access arrangements have been submitted which would not

prejudice the free flow of traffic on the site's surrounding streets. Without the provision of safe visibility splays and the provision of on-street car parking mitigation measures on Brian Street and Thomas Street (such as waiting time restrictions) it is the considered view of Officers and Kirklees Council Highways Development Management that the proposal would lead to an unacceptable impact on highway safety and is therefore contrary to Policy LP21 of the adopted Kirklees Local Plan, Highway Design Guide SPD, and the NPPF (paragraph 111).

3. There are no material considerations advanced in favour of the development that would outweigh the identified conflict with the Development Plan.

## 2 SITE BACKGROUND

### (A) THE SITE AND ITS SURROUNDINGS

- 2.2 The appeal site comprises a 0.27 ha parcel of land, which is located between Thomas Street, Thorncliffe Street and Brian Street, in Lindley, Huddersfield. The site is of regular shape, and comprises vacant, previously-developed land.
- 2.3 Until 2002, the land accommodated a children's home (Use Class C2). Once vacated, the building was utilised as offices, but these were demolished in around 2013. The cleared site has been vacant and derelict for around 10 years, and it is currently enclosed on all sides by herras fencing.
- 2.4 The northern boundary of the site fronts Thomas Street, Thorncliffe Street lies to the east of the site, and Brian Street runs to the south. A footpath runs along the western boundary of the site, adjacent to the gable ends of 50 Brian Street and 55 Thomas Street, and this is a public right of way (outside the site boundary).
- 2.5 The site currently has two vehicular access points onto Brian Street, incorporating dropped kerb pedestrian crossings at the bell mouths, with tactile paving. The site also currently has a vehicle access onto Thomas Street to the north, which comprises a dropped kerb footpath crossing.
- 2.6 There are a number of trees on the site, mainly sited along the western boundary. The majority of the trees are protected by two group Tree Preservation Orders (TPO No. 12/12 G1 and G2).
- 2.7 The site is located within a predominantly residential neighbourhood, and it is surrounded on all sides by existing housing. The existing housing comprises two-storey terraced and semi-detached properties, but there are also some three-storey flats on Brian Street. There is also a doctor's surgery located directly to the north of the site, off Thomas Street (Lindley Village Surgery).
- 2.8 The site is located very close to the shops and services of Lindley District Centre, which is located less than 100m to the east of the site.
- 2.9 A bus stop is located immediately adjacent to the site, on Thorncliffe Street, which provides regular services to Lindley, Halifax, Meltham and Dalton.

- 2.10 There are no planning designations affecting the site, which is 'white land' within the built-up area of Lindley (within the settlement boundary). The site is not subject to any heritage or environmental designations.

(B) PLANNING HISTORY

- 2.11 The former use of the site was as a children's home (Use Class C2), which ceased operations in 2002, and the buildings were demolished in around 2013.

- 2.12 The site has also been the subject of the following planning applications:

- **2002/91493:** Change of use from children's home to office accommodation with parking – Granted;
- **2010/93042:** Change of Use from C2 (Former Care Home) to D1 (Health Centre) – Withdrawn;
- **2010/93040:** Outline application for erection of 2 storey 30 bed care home – Withdrawn;
- **2010/93155:** Outline application for erection of 12 Semi-Detached dwelling units – Withdrawn;
- **2011/90047:** Demolition of existing building and erection of 12 no. 3-Bed 2-Storey dwellings and associated car parking – Withdrawn;
- **2012/90951:** Outline application for erection of 12 semi-detached dwellings – Granted;
- **2013/92811:** Prior notification for demolition of redundant council offices - Demolition Details Approved;
- **2019/90588:** Erection of portable building for use as temporary pharmacy- Conditional Full Permission;
- **2020/90149:** Variation of condition 1 (expiration period) on previous permission 2019/90588 for erection of portable building for use as temporary pharmacy - Removal or modification of condition(s).

- 2.13 Following refusal of the application that is the subject of the current appeal (ref. 2022/60/92194/W) in March 2023, the Appellant has submitted two further planning applications relating to the site:

- The first is a resubmission of the refused appeal scheme, and has been given reference **2023/91344.**

- Walsingham Planning has also submitted a full planning application for the erection of a 60-bedroom care home on the site, which provides full details of the proposed appearance, layout, scale and landscaping of the scheme, as well as the proposed access arrangements (ref. **2023/91408**).

### 3 PLANNING POLICY

#### (A) DEVELOPMENT PLAN

3.1 The Development Plan relevant to the appeal consists of the Kirklees Local Plan (February 2019) and the Kirklees Local Plan Allocations and Designations (February 2019).

3.2 The following policies are agreed to be relevant to the determination of the appeal:

##### Local Plan

- Policy LP1: Presumption in favour of sustainable development;
- Policy LP2: Place Shaping;
- Policy LP3: Location of new development;
- Policy LP7: Efficient and effective use of land and buildings;
- Policy LP9: Supporting skilled and flexible communities and workforce;
- Policy LP20: Sustainable travel;
- Policy LP21: Highways and access;
- Policy LP22: Parking;
- Policy LP23: Core walking and cycling network;
- Policy LP24: Design;
- Policy LP27: Flood risk;
- Policy LP28: Drainage;
- Policy LP30: Biodiversity and geodiversity;
- Policy LP32: Landscape;
- Policy LP33: Trees;
- Policy LP52: Protection and improvements of environmental quality;
- Policy LP53: Contaminated and unstable land; and
- Policy LP63: New open space.

##### Local Plan Allocations and Designations

- No policies / allocations of relevance.

## (B) OTHER MATERIAL PLANNING POLICY CONSIDERATIONS

### National Planning Policy Framework

- Section 1 Introduction
- Section 2 Achieving Sustainable Development
- Section 4 Decision Making
- Section 5 Delivering a Sufficient Supply of Homes
- Section 8 Promoting Healthy and Safe Communities
- Section 9 Promoting Sustainable Transport
- Section 11 Making Effective Use of Land
- Section 12 Achieving Well-Designed Places
- Section 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change
- Section 15 Conserving and Enhancing the Natural Environment

### National Planning Policy Guidance

### Kirklees Highway Design Guide SPD (2019)

### Manual for Streets 2 (2010)

## 4 KEY ISSUES

### (A) MATTERS IN AGREEMENT

- 4.1 It is agreed that the development of a Use Class C2 care home on the site is acceptable in principle, in accordance with Policies LPI, LP2 and LP3 of the adopted Kirklees Local Plan and the NPPF (Page 9 of the Delegated Report).
- 4.2 It is agreed that the proposed development would represent a sustainable use of previously developed land (Page 9 of the Delegated Report).
- 4.3 It is agreed that there is a need for additional care home accommodation in the Borough, to meet the future care need requirements of older people in Kirklees (Page 10 of the Delegated Report).
- 4.4 A 60-bedroom care home is considered acceptable on the site, with space for sufficient amenity green space and ancillary facilities such as car parking, in accordance with Policy LP7 of the Local Plan (Page 11 of the Delegated Report).
- 4.5 The proposal will not prejudice the free function of the Public Right of Way to the west of the site (HUD/365/20), and the proposal accords with Policy LP23 of the Local Plan (Page 11 of the Delegated Report).
- 4.6 It is agreed that the appeal site is in a sustainable location and that the submitted Travel Plan will promote modal shift for future staff to and from the site, in accordance with Policy LP20 of the Local Plan (Page 12 of the Delegated Report).
- 4.7 Whilst acknowledging that car park layout is a matter for consideration at Reserved Matters stage, Appendix 5 of the Appellant's Statement of Case presents swept path analysis which confirms that an ambulance, mini bus and HGV could enter the site, turn, and leave the site in forward gear if all the car parking spaces were to be occupied. A Kirklees Highways Officer has examined the plans and found them to be acceptable, and thus the potential to achieve internal turning for emergency / service vehicles within the site is agreed.
- 4.8 It is agreed that the proposed quantum of car parking (21 spaces) is acceptable. The proposed quantum of cycle parking is also agreed (Page 16 of the Delegated Report).

- 4.9 The contents of the Appellant's Flood Risk Assessment and Drainage Management Strategy is agreed and can be subject to a compliance planning condition, and on this basis the scheme accords with Policies LP27 and LP28 of the Local Plan and the NPPF (Chapter 14) (Pages 16 - 18 of the Delegated Report).
- 4.10 The Appellant's Preliminary Ecological Appraisal has been accepted by the Council, and the Appellant is happy to accept a planning condition to secure an Ecological Design Strategy to be submitted at Reserved Matters stage, to accord with Policy LP30 of the Local Plan and the NPPF (Chapter 15) (Page 18 of the Delegated Report).
- 4.11 It is agreed that the outline proposals accord with Policy LP33 of the Local Plan (regarding trees and woodland), and that full arboricultural details will be submitted at Reserved Matters stage (Page 19 of the Delegated Report).
- 4.12 Notwithstanding that layout, scale, landscaping and appearance are reserved for future consideration, it is agreed that the proposed 60-bed care home should be capable of being integrated into the local vernacular through its design, use of external materials and landscaping, in line with Policy LP24 of the Local Plan (Page 20 of the Delegated Report).
- 4.13 Whilst the layout of the scheme is not fixed, it is agreed that the proposal would likely be acceptable in residential amenity terms in relation to overbearing, overlooking, overshadowing, and loss of outlook, subject to a full assessment at Reserved Matters Stage. The indicative layout of the care home would thus likely be acceptable in residential amenity terms under Policy LP24 of the Local Plan (Page 21 of the Delegated Report).
- 4.14 No objection has been received from Kirklees Environmental Health team regarding noise, odour or light pollution, subject to appropriate planning conditions. Compatibility with the aims of Policy LP52 of the Local Plan is therefore not considered to present an obstacle to the development of the site (Page 22 of the Delegated Report).
- 4.15 It is agreed that the appeal scheme is compatible with the aims of Policy LP53 of the Local Plan, with regards to matters of ground contamination and stability (Page 23 of the Delegated Report).
- 4.16 It is agreed that the appeal scheme is likely to be considered in accordance with Policy LP9 in relation to job creation, subject to further assessment (Page 24 of the Delegated Report).

**(B) MATTERS IN DISAGREEMENT**

4.17 The matters in disagreement are outlined in Reason for Refusal 2 of the Decision Notice, and relate solely to matters of servicing and access. In summary, the parties are in disagreement about the proposal's alignment with Policy LP21 of the Local Plan, the Highway Design Guide SPD and the NPPF (Chapter 9, particularly paragraph 111).

4.18 The specific points of contention are as follows:

- The Council considers that waiting restrictions are required to ensure suitable visibility at the site access for both private vehicles and emergency / service vehicles, and this point is contested by the Appellant (Page 13 of the Delegated Report).
- The Council is concerned with the site's servicing arrangements at its north-western corner (on Thomas Street), with conflict expected between parked cars and the servicing / delivery access, and disruption to the free flow of traffic along the highway. This point is contested by the Appellant (Page 13 of the Delegated Report).

4.19 The Appellant also contests the planning balance that was exercised by the Council in this case. As set out on pages 24 and 25 of the Delegated Report, the Council concludes that the appeal proposals do not accord with the Development Plan as a whole, and that the adverse impacts of granting planning permission outweigh any benefits of the development. The Appellant will contest this conclusion in its Appeal Case.

## 5 PLANNING CONDITIONS

5.1 Both parties agree the following conditions are appropriate in the event of the appeal being upheld:

1. Prior to the commencement of development, plans and particulars of the Reserved Matters relating to appearance, landscaping, layout and scale (hereinafter called the “Reserved Matters”) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in full accordance with the Reserved Matters so approved.

**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 pre-commencement condition is necessary to ensure that Reserved Matters are approved at an appropriate stage of the development process.

2. All applications 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.

3. 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:** This permission is in outline only and to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended).

4. 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, to ensure that the development is carried out only as approved by the Local Planning Authority, and in accordance with Policies LP1, LP2, LP21, LP22 and LP24 of the Kirklees Local Plan, the Kirklees Highways Design Guide, Kirklees Housebuilders Design Guide SPD and the aims of the National Planning Policy Framework.

5. No part of the development shall be brought into use until a Full Travel Plan for the site, has been submitted to and approved in writing by the Local Planning Authority. The Full Travel Plan shall include:

- Measures, objectives and targets for reduced car usage and increased non-car transport usage, including modal split targets;
- The provision of Travel Plan Co-ordinator including roles, responsibilities and annual monitoring;
- The provision of travel Information;
- Implementation and review timescale;

- Enforcement, sanctions and corrective/review mechanisms.

The measures contained within the Travel Plan shall be implemented in accordance with the approved timescale, except where the monitoring evidence demonstrates that a revised timescale/measures to achieve trip targets are necessary, in which case the revised details would be implemented.

**Reason:** To ensure future occupiers of the development are encouraged to use sustainable forms of transport and to mitigate the highway and air quality impacts of the development, in accordance with Policies LP20, LP21, LP51 and LP52 of the adopted Kirklees Local Plan.

6. Prior to the commencement of development (including demolition and ground works) 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;
- Details of vehicle sizes and routes;
- Details of times of vehicle movements;
- Details of parking for construction workers;
- Details of signage;
- Pre-development road condition surveys; and
- Details of wheel washing facilities within the site

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, and to accord with Policies LP21 and LP52 of the Kirklees Local Plan.

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

7. Prior to the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the Local Planning Authority. The plan shall describe in detail the actions that will be taken to minimise adverse impacts on occupiers of nearby properties by effectively controlling:

- Noise and vibration arising from all construction related activities (this shall also include suitable restrictions on the hours of working on the site including times of deliveries);
- Dust arising from all construction related activities, which should include measures to monitor and record the emissions of dust during construction; and
- Artificial lighting used in connection with all construction related activities and security of the construction site.

A communications plan detailing the responsible person, their contact details and how this will be communicated to local residents and the Local Planning Authority

must be included. The agreed plan shall be adhered to throughout the construction of the development.

**Reason:** To safeguard the amenities of the occupiers of nearby properties in accordance with part 15 of the NPPF and LP52 of the Local Plan.

This pre-commencement condition is necessary to ensure appropriate measures to protect amenity are undertaken during the construction period.

8. Prior to the commencement of development a scheme detailing temporary surface water drainage for the construction phase (after soil and vegetation/site strip) shall be 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 detail how flooding of adjacent land is prevented.

The scheme shall include a plan showing the location of the attenuation storage and supporting calculations, which shall be based on the critical 1 in 2-year storm. It should be assumed that once the site has been stripped that the percentage run-off will be 100%. The maximum allowable off-site discharge rate shall not exceed 2.5 litres per second per ha, unless otherwise agreed with the LLFA. 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:** In the interest of providing a satisfactory surface water drainage scheme which does not detrimentally impact on the site and surrounding area during the construction phase, in accordance with Policy LP28 of the adopted Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

This is pre-commencement to ensure detailed designs are available to enable implementation as part of the construction program.

9. Prior to the commencement of development, details of secure covered cycle parking shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be provided before first occupation and shall be so retained thereafter.

**Reason:** In the interests of highways and cyclist safety and security as to achieve a satisfactory and safe layout, in accordance with Policies LP21 and LP24 of the Kirklees Local Plan and Chapters 9 and 12 of the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure appropriate measures to protect amenity, maintain highways safety and ensure suitable bike storage can be provided prior to the layout being finalised and to avoid the provision being omitted or poorly retrofitted.

10. No part of the development shall be brought into use until the existing accesses from Brian Street to the east of the site frontage and the access onto Thomas Street have been permanently closed [and any redundant footway crossings removed, and the footway reinstated] and the new access has been constructed and brought into

use in accordance with details that have previously been approved in writing by the Local Planning Authority.

**Reason** To avoid danger and inconvenience to highway users as well as to achieve a satisfactory and safe layout, in accordance with Policies LP21 and LP24 of the Kirklees Local Plan and Chapters 9 and 12 of the National Planning Policy Framework.

11. Prior to the commencement of development, the sightlines from the Brian Street access of 2.4m x is 32.8m to the east and 30.3m to the west as shown on the Sanderson Associates Visibility at site access plan number 152986-001 Rev A shall be cleared of all obstructions to visibility exceeding 1m in height and these shall be retained free of any such obstruction.

**Reason:** To ensure adequate visibility in the interests of highway safety by means of securing a safe layout, in accordance with Policies LP21 and LP24 of the Kirklees Local Plan and Chapters 9 and 12 of the National Planning Policy Framework. This pre-commencement condition is necessary to ensure appropriate measures to protect highway safety are undertaken prior to construction commencing.

12. Prior to the commencement of development, a scheme to prevent fats, oils, and grease entering the drainage network serving commercial food preparation and dish-washing areas shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to first operation of the development and shall be retained throughout the lifetime of the development.

**Reason:** To ensure the provision of adequate and sustainable systems of drainage are employed, in the interests of amenity, and environmental well-being and to comply with LP44 of the Local Plan and Chapters 12 and 15 of the NPPF. This pre-commencement condition is necessary to ensure measures to protect drainage infrastructure are agreed at an appropriate stage.

13. Prior to the commencement of development, a detailed design scheme detailing foul, surface water and land drainage, including agreed discharge rate of 5.0 l/s with the LLFA to the combined sewer, attenuation for the critical 1 in 100 + climate change rainfall event, attenuation construction details /design, plans and longitudinal sections, hydraulic calculations, phasing of drainage provision shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a risk assessment and method statement, in accordance with CDM Regulations 2015, for access to and into the attenuation structure, and the scheme shall include a maintenance and management plan for surface water infrastructure. No part of the development 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 and retained thereafter.

**Reason:** In the interest of providing a satisfactory surface water drainage scheme which does not detrimentally impact on the site or future occupiers, in accordance with Policy LP28 of the adopted Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure drainage details are agreed at an appropriate stage.

14. Prior to the commencement of development, an assessment of the effects of 1 in 100 year storm events, with an additional allowance for climate change, blockage scenarios and exceedance events on drainage infrastructure and surface water run-off pre and post development between the development and elsewhere (both upstream and downstream of the development), shall be submitted to and approved

in writing by the Local Planning Authority. No part of the development shall be brought into use (dwellings shall not be occupied) until the works comprising the approved scheme have been completed and such approved scheme shall be retained thereafter.

**Reason:** In the interest of providing a satisfactory surface water drainage scheme which does not detrimentally impact on the site or future occupiers, in accordance with Policy LP28 of the adopted Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure detailed designs are available to enable implementation as part of the construction program.

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

**Reason:** In the interests of satisfactory and sustainable drainage and so as to accord with Policies LP27, LP28 and LP34 of the Kirklees Local Plan as well as Chapter 14 of the National Planning Policy Framework.

16. Any application for Reserved Matters shall be accompanied by an ecological design strategy (EDS) addressing the mitigation and enhancement detailed within the submitted PEA. The EDS shall be submitted to and agreed in writing by the local planning authority. The EDS shall include the following.

- Purpose and conservation objectives for the proposed ecological works;
- Location (shown on appropriate scale plans) of specific make and model, or design, of habitat boxes, such as bat boxes, bird boxes and hedgehog refuges (habitat boxes to be integral to new structures where appropriate);
- Details of how the design of boundary treatments will not obstruct the movement of hedgehogs;
- Planting schedule and planting plan showing the inclusion of native species of tree and shrub to be included within/at the boundary of the application area, and how this achieves the stated purpose; and
- Details of maintenance.

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 hereby permitted provides ecological enhancement measures sufficient to provide a biodiversity net gain in accordance with policy LP30 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure detailed designs are available to enable implementation as part of the construction program.

17. Prior to the commencement of development, full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. These works shall include:

- Location and detailed design and layout of open space, site furniture and; maintenance responsibility the landscape design. This will include, where relevant, make, model and means of installation of proposed site furniture, habitat boxes, and/or detailed designs for these elements including bespoke habitat structures.
- Landscape works at the access points and at the boundaries etc;
- Materials to be used for all hard surfaced areas including linking paths to buildings, access points, vehicle and other circulation areas;

- Soft landscape works to include planting plans; plant schedules noting species, plant sizes and proposed numbers/densities where appropriate; and an implementation, management, and maintenance programme;
- Landscape Management Plan required including details of initial aftercare and long-term maintenance for minimum of five years.

This should also include any SuDS features, existing trees and vegetation retained on site. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the implementation programme agreed with the Local Planning Authority.

**Reason:** To enhance and conserve the visual amenity of the historic built environment as well as the natural environment in accordance with Policies LP24, LP30, LP32, LP33 of the Kirklees Local Plan as well as Chapters 12 and 15 of the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure detailed designs are available to enable implementation as part of the construction program.

18. No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

**Reason:** To prevent significant ecological harm in respect of direct impacts to birds, their eggs, nests and young and to accord with policy LP30 and the requirements of Chapter 15 of the National Planning Policy Framework.

19. All planted materials shall be maintained for five years, and any trees or plants removed, dying, being damaged or becoming diseased within that period shall be replaced in the next planting season with others of similar size and species to those originally required to be planted unless the council gives written consent to any variation. Reason: In the interests of the visual amenity and character of the surrounding area and to accord with Policy LP24 of the Kirklees Local Plan.

**Reason:** In the interest of visual and residential amenity, to ensure that there is a well laid out scheme of hard and soft landscaping, to comply with the aims and objectives of Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

20. Prior to materials being imported to the site associated with the erection of the care home, associated access and sub station, a strategy detailing the intended placement, the source, characterisation and the suitability of any imported material must be submitted to and approved in writing the Local Planning Authority. Testing to demonstrate suitability shall then be carried out in accordance with the approved strategy. Following importation and placement of the materials as described in the approved strategy, a Verification Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time until a Verification Report has been approved in writing by the Local Planning Authority.

**Reason:** To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraphs 183 and 184 of the National Planning Policy Framework.

21. In the event that contamination, or the presence of coal not previously identified in the approved Ground Investigation report by Georisk Management Limited, dated May 2022 (ref: 22052/1) prior to the grant of this planning permission is encountered during the development, all works in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Works in the affected area shall not recommence until either (a) a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy. Following completion of any measures identified in the approved Remediation Strategy a Verification Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as that part of the site has been remediated in accordance with the approved Remediation Strategy and a Verification Report in respect of those works has been approved in writing by the Local Planning Authority.

**Reason:** To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraphs 183 and 184 of the National Planning Policy Framework.

22. Prior to the commencement of food cooking within the development, details of a kitchen extract system shall be submitted to and approved in writing by the Local Planning Authority. The details shall provide the following information:

- A risk assessment for odour which considers amount and type of food that would be cooked together with the proposed dispersion of odours and proximity of receptors likely to be affected by any cooking odours;
- Based on the risk assessment, details of the proposed methods of odour control and dispersion of any extracted odours. The effective stack height (discharge height plus plume rise) must be high enough to ensure that adequate dilution takes place before the plume interacts with the nearest sensitive receptor;
- Details showing the proposed location of all the major components of the extract system;
- The noise mitigation measures that would be incorporated in the extract system and details of the likely resulting noise levels that would be caused by operation of the extract system, in particular how loud it would be at nearby noise sensitive locations; and
- The proposed ongoing maintenance schedule that would be carried out to ensure that the extract system continues to effectively control odours and not cause excessive noise.

Before food cooking commences the approved extract system shall be installed and thereafter retained and maintained in accordance with the approved details.

**Reason:** To ensure the proposed development does not cause harmful odour pollution within either a public area or at neighbouring premises in the interest of amenity, to comply with the aims and objectives of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

23. Prior to first occupation, a scheme detailing the dedicated facilities that will be provided at the premise for charging electric vehicles and other ultra-low emission

vehicles shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall meet the requirements of the current West Yorkshire Low Emission Strategy (WYLES) document. The approved dedicated facilities for charging electric vehicles shall be installed prior to occupation and retained for use thereafter.

**Reason:** In the interest of supporting and encouraging low emission vehicles, in the interest of air quality enhancement, to comply with the aims and objectives of Policies LP20, LP24 and LP47 of the Kirklees Local Plan, Chapters 2, 9 and 15 of the National Planning Policy Framework and the West Yorkshire Low Emission Strategy (WYLES).

24. Prior to the installation of external artificial lighting, details of a lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following information:

- The proposed hours of operation of the lighting;
- The location and specification of all of the luminaires;
- The proposed design level of maintained average horizontal illuminance for the areas that needs to be illuminated;
- The measures that will be taken to minimise or eliminate glare and stray light arising from the use of the lighting that is caused beyond the boundary of the site; and
- The methods of switching and controlling the lighting so that it is only operated at the permitted times and at times when it is required.

No external artificial lighting shall be used unless the lighting has been installed and operated in accordance with the approved scheme.

**Reason:** To safeguard the amenities of the occupiers of nearby properties and promote sustainable development in accordance with part 2 and 15 of the NPPF and LP52 of the Local Plan.

**NOTE:** It is recommended that prior to development commencing the applicant should contact the Food Safety Team of Environmental Services to arrange an advice visit to discuss food safety and hygiene requirements including an appropriate layout. The Food Safety team can be contacted on 01484 22100 (ask for food safety) or by email at [food.safety@kirklees.gov.uk](mailto:food.safety@kirklees.gov.uk).

**NOTE:** Noisy construction related activities should not take place outside the hours of:

- 07.30 to 18.30 hours Mondays to Fridays
- 08.00 to 13.00 hours, Saturdays

With no noisy activities on Sundays or Public Holidays Institute of Air Quality Management document “Guidance on the assessment of dust from demolition and construction” Version 1.1 2014 provides detailed information regarding dust control. Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an

abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

**NOTE:** The proposed design levels of illuminance should be shown to be appropriate for the intended use by reference to appropriate guidance. Generally, to minimise problems of glare and stray light from external artificial lighting it should be installed and maintained in accordance with the “Guidance Note 01/21 for the Reduction of Obtrusive Light” by the Institution of Lighting Professionals: 2021 [www.theilp.org.uk](http://www.theilp.org.uk). The predicted levels of stray light must not exceed the recommended maximum levels given in Table 2 of this guidance for the corresponding Environmental Zone (i.e. E0 to E4).

**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) regarding 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:** The electrical supply of the final installation should allow the charging equipment to operate at full rated capacity and the installation must comply with all applicable electrical requirements in force at the time of installation. The conditions relate to Planning Control only. Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information in relation to Approved Document S.

**NOTE:** All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2021. Reports must be prepared in accordance with the following guidance:

- Land Contamination Risk Management (LCRM)
- BS 10175:2011+ A2:2017 Investigation of Potentially Contaminated Sites. Code of Practice
- Development on Land Affected by Contamination - Technical Guidance for Developers, Landowners & Consultants - (v11.2) June 2020 by the Yorkshire and Lincolnshire Pollution Advisory Group.

The conditions relate to Planning Control only. Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information. Any other necessary consent must be obtained from the appropriate authority. If the applicant commences work without discharging conditions, they will be at risk of enforcement action and invalidating the permission if the planning condition is a pre commencement condition.

| <b>Plan Type</b>                                             | <b>Reference</b>                 | <b>Version</b> |
|--------------------------------------------------------------|----------------------------------|----------------|
| Site Location Plan                                           | 9-1                              | Rev A          |
| Proposed Site Plan<br>(indicative)                           | 9-2                              | Rev H          |
| Proposed Ground Floor<br>Plan (indicative)                   | 00-1                             | A              |
| Proposed First Floor Plan<br>(indicative)                    | 00-2                             | A              |
| Illustrative Proposed<br>Second Floor Plan<br>(indicative)   | 00-3                             | A              |
| Illustrative Proposed Roof<br>Plan (indicative)              | 27-1                             | A              |
| Arboricultural Impact<br>Assessment                          | 80-761-R1-4                      | -              |
| Design and Access<br>Statement                               | -                                | -              |
| Care Home Need<br>Assessment                                 | -                                | -              |
| Preliminary Ecological<br>Appraisal                          | BEK-22034-1                      | A              |
| Flood Risk Assessment<br>and Drainage<br>Management Strategy | HYD710_THOMAS.S<br>TREET_FRA&DMS | 1.1            |
| Geo-Environmental<br>Ground Investigation<br>Report          | -                                | -              |
| Planning Statement                                           | -                                | -              |
| Transport Assessment                                         | 300829-001-03                    |                |
| Travel Plan                                                  | 300829-002-04                    |                |
| Level 1 Utility Study                                        | -                                | 2              |

**Signed on behalf of the LPA**

*William Simcock*

**Date:**

**25 August 2023**

**Signed on behalf of the Appellant:**

*Mark Kssoul*

**Of Walsingham Planning**

**Date: 23 August 2023**